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ABSTRACT

This annual publication (published separately in English and Spanish) examines political, legal, social, environmental, and educational issues concerning indigenous peoples around the world during 1997-98. Part I highlights news events and ongoing situations in specific countries in nine world regions. In the Arctic and North America, these include a U.S. Supreme Court ruling that "Indian Country" does not exist in Alaska; funding cuts for education, health, and social services in the Northwest Territories; planning for the creation of the new Canadian territory of Nunavut; a Canadian Supreme Court decision affirming aboriginal land rights in the absence of treaties; threats by developers, mining, and drilling to Indian sacred sites and lands used for subsistence activities; cultural and environmental education for Western Shoshone youth; and the Leonard Peltier case. Other sections cover Mexico and Central America, South America, the Pacific and Australia, East Asia, Southeast Asia, South Asia, and Africa. Indigenous issues in these regions include violations of human rights, proposed reforms to education and language policy, environmental threats and indigenous opposition, legal and political reforms, intellectual property rights, land rights, preservation of traditional knowledge, a historical report on Australian Aboriginal children removed from their families, indigenous self-determination, and global indigenous networking and cooperation. Part II examines indigenous women's issues covered by the First African Indigenous Women's Conference, the Second Asian Indigenous Women's Conference, the Conference of Indian Tribal/Indigenous Women, and the Pacific Families' Network. Part III describes international work on behalf of indigenous rights and includes three articles: "UN Declaration Enters Third Year at the UN Commission on Human Rights" (Andrew Gray, Jens Dahl); "The 54th Session of the UN Commission on Human Rights" (Jens Dahl, Lola Garcia-Alix); and "Towards a

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European Policy on Indigenous Peoples and Development Cooperation" (Birgitte Feiring). Includes maps and photographs. (SV)

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THE INDIGENOUS WORLD 1997-98

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THE INDIGENOUS WORLD

1997-98

IWGIA
Copenhagen 1998

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CONTENTS

Editor's Preface 7

Part I: The Indigenous World

The Arctic 21
North America 47
Mexico and Central America 75
South America 97
The Pacific and Australia 143
East Asia 185
Southeast Asia 193
South Asia 255
Africa 287

Part II: Indigenous Women's Issues

The First African Indigenous Women's Conference 319
The Second Asian Indigenous Women's Conference 326
Conference of Indian Tribal/Indigenous Women 333
Pacific Families' Network 342

Part III: Indigenous Rights

UN Declaration enters Third Year at the UN Commission on Human Rights
by Andrew Gray and Jens Dahl 347
The 54th Session of the UN Commission on Human Rights
by Jens Dahl and Lola García-Alix 364
Towards a European Policy on Indigenous Peoples and Development Co-operation
by Birgitte Feiring 379

IWGIA Publications

New Documents 388
List of Documents 394

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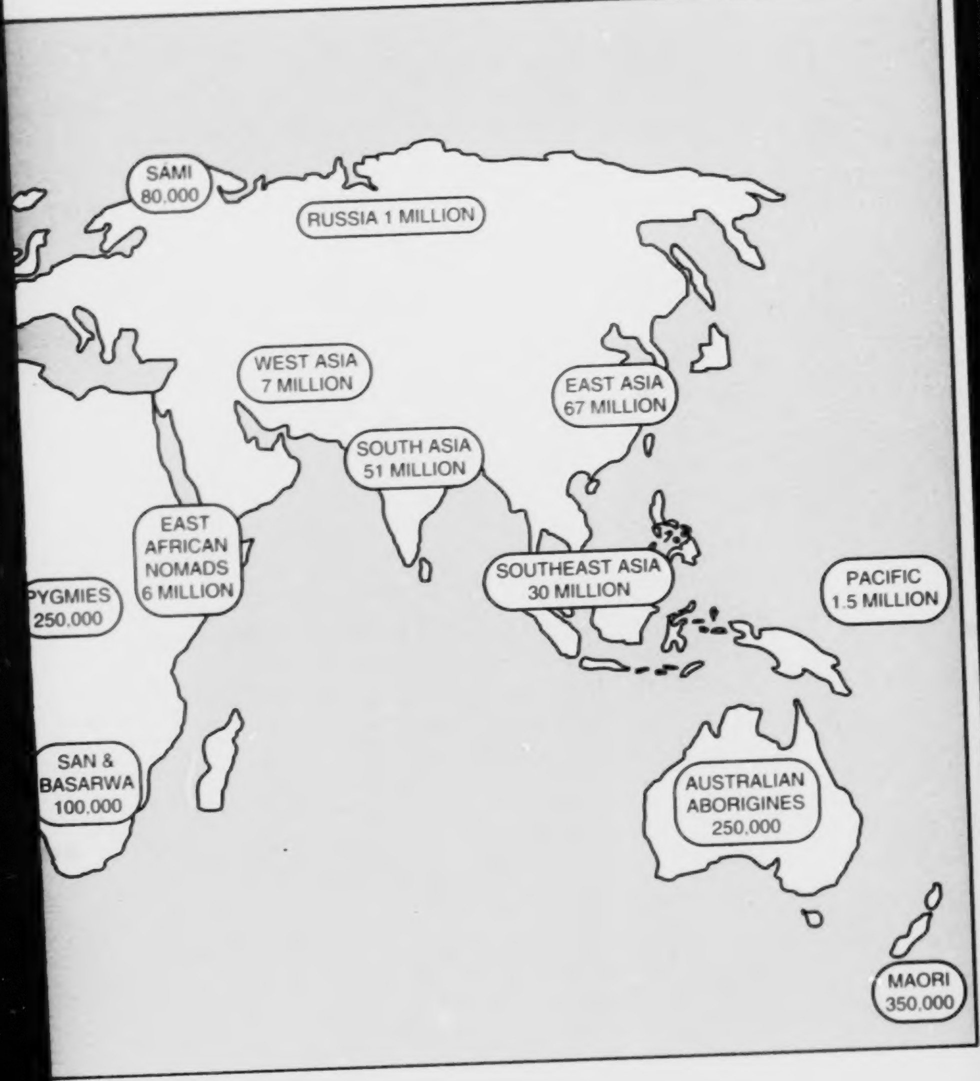

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EDITOR'S PREFACE

This year's edition of "The Indigenous World" comes in new clothes: a coloured cover, a new layout, and, the major change, a new section titled "Indigenous Women's Issues".

The adoption of a special section dealing with indigenous women's issues may - correctly - be interpreted as resulting from an increased gender consciousness within IWGIA. As a matter of fact, IWGIA has just embarked on drafting a specific gender strategy to guide its work in the future. Ultimately, the introduction of a new section on women's issues reflects the indigenous women's increasing claim for space within the indigenous movement, for their special concerns to be taken into account, their voice to be heard.

Women have always been at the forefront of the indigenous movement, on local, regional as well as the global level. But compared to their male partners they have been few in numbers. The indigenous movement was and still is largely male dominated. The magnitude of the task of asserting the basic rights of indigenous peoples has bound all forces. Indigenous women have been aware that the recognition of these rights is a precondition for their well being as indigenous women. Only with the growing strength of the indigenous movement have indigenous women gained the space allowing them to express their specific concerns and voice their demands. This finds its expression in an increasing number of indigeous women's organisations and networks, conferences and publications. The new section on indigenous women has as its main objective to inform about such initiatives and events, and to allow indigenous and non-indigenous writers to reflect on issues related to indigenous women.

The reader may, however, soon discover that the new section on indigenous women provides only selective information. There are contributions from Asia, Africa and the Pacific, but none from Latin and North America or the Arctic. The circumstances which have led to this incomplete regional coverage are the same as those which make "The Indigenous World" fall short of providing a complete global overview.

Although the editors and contributors have tried hard, it was impossible to get all the necessary articles together. To provide a comprehensive and exhaustive coverage of the past year's developments among the world's indigenous peoples will most likely always have to remain an ideal, and not so much an aim which can be achieved. The nature of the authorship, a large number of indigenous and non-indigenous people working in indigenous organisations, support groups, academic institutes etc., makes "The Indigenous World" a unique, but in some respect also more "vulnerable" publication. Only the large number of specialized contributors can guarantee the qualitative standard of the publication. But related to that large number is the publication's vulnerability, i.e. the probablility that some authors will, due to unforeseen circumstances and events - such as this year, for example, the dramatic political changes in Indonesia - be prevented from sending in their contribution.

Just like "The Indigenous World" as a whole so far, the new section on Indigenous Women's Issues is and will be the result of the indigenous and non-indigenous authors' voluntary contributions and IWGIA's facilitation and coordination. And as we now stand at the beginning of this new "project", IWGIA would like to encourage indigenous and non-indigenous women to come up with ideas, suggestions and contributions. It should at this point be stressed that the direction the "project" takes and what the original idea develops into will largely depend on the response IWGIA gets from indigenous women.

IWGIA's increased committment to working on indigenous women's issues is also reflected in the recent publication of a book on indigenous women. Edited by IWGIA staff member Diana Vinding, the book entitled "Indigenous Women: The Right to a Voice" was published as IWGIA Document No. 88 in June this year. But it would be not correct to conclude that this year marks a new era in IWGIA with respect to gender issues. IWGIA published a document on indigenous women already in 1990 (Document No. 66: "Indigenous Women on the Move"; still available), and "Indigenous Affairs" 2/95 (unfortunately out of print) had indigenous women as a thematic focus.

But in another respect this year is a special year for IWGIA. In October IWGIA will celebrate its 30th anniversary. From a small group of concerned anthropologists committed to doing voluntary support and lobbying work for indigenous peoples, it has grown into a still rather small, but fully professional organisation. Even though the somewhat special focus on women's issues this year only coincides with the anniversary by accident, it is hoped that the momentum gained in this respect will be sustained in IWGIA's work in the decades to come.

Contributions

IWGIA would like to extend warm thanks to the following people and organisations for having contributed to *The Indigenous World*:

The Arctic

Jack Hicks has lived and worked in the Canadian Arctic since 1981, and was Director of Research for the Nunavut Implementation Commission. He can be reached in Iqaluit, Nunavut's capital-to-be, at jhicks@nunanet.com. *(Nunavut)*

Marianne Lykke-Thomsen, has been associated with IWGIA for many years. She has worked for the Inuit Circumpolar Conference and is now working for the Greenland Home Rule Government, the Office of International Relations. (*Greenland*)

Olga Murashko, anthropologist, active member of the IWGIA Russian National Group. (*Russia*)

Claus Oreskov, anthropologist, has been active in the IWGIA Danish National Group for many years. He organised the IWGIA conference held in connection with the UN Social Summit in Copenhagen. (*Sápmi*)

Gordon L. Pullar, a Kodiak Island Alutiiq, is the Director of the Department of Alaska Native and Rural Development at the University of Alaska Fairbanks. He is currently the President of the Koniag Educational Foundation and the former President of the Kodiak Area Na-

tive Association and the national Keepers of the Treasures: Cultural Council of American Indians, Alaska Natives and Native Hawaiians. *(Alaska)*

North America

Andreas Knudsen, Bachelor of Business Languages in Russian and English. Freelance journalist. He has been interested in North American Indians since his childhood. Active in the IWGIA Danish National Group since 1993. *(North America: Blackfeet, Chippewa, Hopi-Dineh, Apache, Western Shoshone, Timbisha, Lubicon, Leonard Peltier, AFN, Canadian elections)*

Jack Hicks (for CV see Arctic; *Canada)*.

Mexico, Central and South America

This section has been compiled and edited by Alejandro Parellada, IWGIA project coordinator and editor of *Indigenous Affairs*

Hans Aalborg, a Danish historian and Marcela Tovar, a Mexican anthropologist. Both live in Guatemala. *(Guatemala)*

Gonzalo Abella, has an M.A. in history. He works as lecturer at the Universidad de la República in Montevideo, the San Simón de Bolivia University and the University la Católica de Paraguay. (Uruguay)

Oscar Ayala Amarilla, a lawyer and member of the Executive Board of the NGO "Tierraviva". *(Paraguay)*

Ann-Catherine Bajard, Annie Oehlerich and Bettina Ringsing, staff members of IBIS-Bolivia and advisors to CIDOB. *(Bolivia)*

Edgardo Benitez, an indigenous Tawahka and Executive Coordinator of the NGO "Asang Launa". *(Honduras)*

Morita Carrasco, an anthropologist and lecturer at the University of Buenos Aires. Author of the IWGIA Document "La Tierra que nos Quitaron" ("The Land They Took Away From Us"). *(Argentina)*

Luis Fernandez is a musician interested in ethnomusicology. Has has worked in Mato Grosso and Rondônia in Brazil since 1980. *(Brazil)*

Pedro García Hierro, a jurist, advisor to AIDESEP and President of the NGO "Racimos" in Unrurahui. He's the author of IWGIA Document "Territorios Indígenas y la Nueva legislación Agraria en el Peru". *(Peru)*

Marcos Guevara, an anthropologist working in the NGO "Centro Skoki". *(Costa Rica)*

René Kuppe, a lawyer and lecturer in the Department of Legal Anthropology of Vienna, Austria. *(Venezuela)*

Atencio López, a Kuna lawyer and President of the NGO "Napguana". *(Panama)*

Roberto Morale, anthropologist who has worked for many years with the Mapuche. *(Chile)*

Max Ooft, an indigenous leader in Surinam, currently working within the International Technical Secretariat of the International Alliance of the Indigenous and Tribal Peoples of the Tropical Forests. *(Surinam)*

Márcio Santilli, is coordinator of the Programa Brasil Socioambiental de la ONG ISA. (Brasil)

Christian Scherrer is a Swiss anthropologist who has worked for many years with indigenous peoples in Nicaragua. *(Nicaragua)*

Natalia Wray, an anthropologist and advisor to various indigenous organizations. *(Ecuador)*.

The Pacific and Australia

Peter Jull, a Canadian, has been a consultant to Aboriginal, Torres Strait Islander, and Arctic people's organisations; he is an Associate of the Australian National University's North Australia Research Unit. *(Australia)*

Martin Miriori is secretary and leader of the Bougainville Interim Government/Bougainville Revolutionary Army delegation, and par-

ticipated in the Burnham Talks in New Zealand which lead to the cease fire agreement - the so-called Lincoln Agreement - of April 30, 1998. *(Bougainville)*

East Asia

Harald Bøkman, Sinologist, Research Fellow at the International Institute of Peace Research in Oslo, Norway. His main field of research are the historical emergence of Chineseness and the relation between China and her neighbours in a historical perspective. (*China*)

Southeast Asia

Anthropology Watch (AnthroWatch) is a research and advocay group on Philippine indigenous peoples established 1994. (*Philippines*)

Minnie Degawan presently works with DINTEG, an indingenous legal rights organisation based in Baguio in the Cordilleras of Northern Luzon in the Philippines. She was the former Secretary General of the Cordillera Peoples Alliance (CPA). (Philippines: *Cordillera)*

For the chapter on *Indonesia* we are grateful to the London based *DOWN TO EARTH,* International Campaign for Ecological Justice in Indonesia, for allowing us to reprint parts of their articles.

Christophe Horvath graduated in law and holds a post-graduate degree in Political Science and International Relations. He has worked for more than two years in Cambodia and is at present doing research on the link between environmental and human rights issues with special focus on indigenous peoples in Cambodia. *(Cambodia)*

Jannie Lasimbang, a Kadazan-Dusun from Sabah. She works as a trainer in PACOS (Partners of Community Organisations), a Trust set up for indigenous communities in Sabah. Since 1984, she has been active in building indigenous network both locally and internationally and is currently the President of the Asia Indigenous Peoples Pact (AIPP). (*Malaysia: Sabah*)

Neil Makinuddin is Executive Director of PLASMA, an NGO wjich is working on environmental and indigenous issues and is based in Samarinda, East Kalimantan. *(Bentian people, East Kalimantan)*

Colin Nicolas is the coordinator for the Center for Orang Asli Concerns (COAC), Kuala Lumpur, Malaysia. (*Malaysia: Orang Asli*)

Torben Retbøll teaches History and Latin at Aarhus Katedralskole, Denmark. He has written or edited several books on mass media and international affairs, including East Timor, Indonesia and the Western Democracies (1980), East Timor: The Struggle Continues (1984) and East Timor: Occupation and Resistance (forthcoming, 1998). *(East Timor)*

South Asia

Ratnaker Bhengra is a lawyer and member of the Jharkandis Organisation for Human Rights which works for autonomy within the Indian state. He is a legal advisor for the human rights organisation Joha-Ranchi and active in the movement against forced resettlement. *(Jharkand)*

C. R. Bijoy, a human rights activist. During the last sixteen years he has been involved or associated with indigenous issues and organisation in India and written about these and associated matters. (*South India*)

Jumma Peoples Network (JUPNET), an organisation established and administered by indigenous Jummas based in various countries of Europe and elsewhere. JUPNET seeks to promote the rights of the indigenous Jummas by dialogue, negotiation and other peaceful means. (*Chittagong Hill Tracts*)

Avdhash Kaushal, former faculty member of the Lal Bahadur Shastri National Academy of Administration (LBSNAA), and recepient of the Padma Shree award from the President of India for environment protection and working with the indigenous peoples in the hill areas of North India. He is currently the chairperson of the Rural Litigation &

Entitlement Kendra (RLEK), Dehra Dun, working for the empowernment of the Van Gujjar and Jaunsari indigenous people. *(India: Uttar Pradesh)*

Luingam Luithui a Tangkhul Naga from Manipur, is the Secretary of the Asia Indigenous Peoples Pact (AIPP). *(Nagaland)*

Prof. C. Nunthara, a Mizo from Mizoram in Northeastern India, holds an M.A. and Ph.F. from the Department of Sociology, Delhi School of Economics, Delhi University. He is currently Professor of Sociology at the Northeastern Hill University in Shillong, Meghalaya, India. He dos research in the field of political sociology, especially on social change and ethnicity in Northeastern India. *(India: Northeast)*

Afrika

Dorothy Jackson holds a Ph.D. in Tropical Forest Ecology (Oxford University) and has conducted field research in tropical forest and entomology in northern Thailand, Columbia and Cameroon. She is presently working as Project Officer in the Forest Peoples Programme (FPP) of the World Rainforest Movement in. (*Equatorial Africa, Rwanda*)

Charles Lane is trained as a lawyer, agriculturalist and social scientist in Australia and the UK. He has worked in Africa for over ten years and done extensive research with pastoralist. He currently acts as an independent consultant and is advising Survival International on a three year programme of support for pastoral land rights in East Africa. He is also a Director of Pilotlight, a new British charity dealing with issues related to people's dispossession from their means of survival. (*Tanzania, Kenya*)

Ann Maymann holds a Master Degree from Roskilde University Center in French and International Development Studies, and a Master Degree from Copenhagen University in International Law of Armed Conflict. She has done five months of internship at UNHCR Senegal and Burkina Faso, has been a JPO from November 1996 for UNHCR Burkina Faso and since April 1998 for UNHCR Angola. *(Mali)*

Kapupu Diwa Mutimanwa works with the Programme d'Integration et de Développement du Peuple Pygmée au Kivu (PIDP-Kivu) in South Kivu province in the East of the Democratic Republic of Congo. *(Kahuzi-Biega National Park)*

Kxai Moses =Oma was born in Nyae Nyae and has since eight years been Manager of the Nyae Nyae Farmers' Co-operative (NNFC); *Wendy Viall* is Support Co-ordinator at the Nyae Nyae Development Foundation of Namibia (NNDFN), and has been employed by NNDFN/NNFC for the past eight years; *Shebby Mate* is NNDFN Programme Manager and Agricultural Advisor, and has been employed by NNDFN/NNFC for the past five years. *(Namibia, Ju/'hoansi of Nyae Nyae)*

Sidsel Saugestad is an Associate Professor at the Institute of Social Anthropology at the University of Tromsø in Norway. Her research interests include ethnic group relations, indigenous peoples, human rights and cultural change. She has done fieldwork in southern Africa, and worked for two years as a NORAD expert in Botswana. *(Botswana)*

Terese Sveijer studies Social anthropology and Human Rights in sociology of Law at the University of Lund, Sweden. She conducted a minor field study amongst the Himba people in 1996 and are a member of the board in IWGIA, Lund. *(Namibia: Himba)*

Louis P. Vorster, anthropologist, professor at the University of South Africa teaching African customary law. 'Chairperson of the !XU and Khwe Trust. (*South Africa*)

Part II: Indigenous Women's Issues

Angeline van Achterberg received her M.A. in Social Anthropology from the University of Amsterdam. Her main areas of study and interest are gender issues and the North-West Region of Africa, specifically the southern Sahara. In 1984, she went to Tamanrasset, Algeria to conduct her fieldwork among the Kel Ahaggar Tuareg. In 1992, she returned to the Netherlands and joined the Netherlands Centre for In-

digenous Peoples where she is the Regional Coordinator for Africa. *(Report on First African Indigenous Women's Conference)*

Rural Litigation & Entitlement Kendra (RLEK), is an NGO based in Dehra Dun, Uttar Pradesh, India. RLEK is working for the empowernment of the Van Gujjar and Jaunsari indigenous peoples. *(Report on Indigenous Women's Conference in India)*

Diana Vinding is an anthropologist and is currently working in IWGIA. She attended the *Asian Indigenous Women's Conference* in Kanchanaburi, Thailand.

Part III: Indigenous Rights

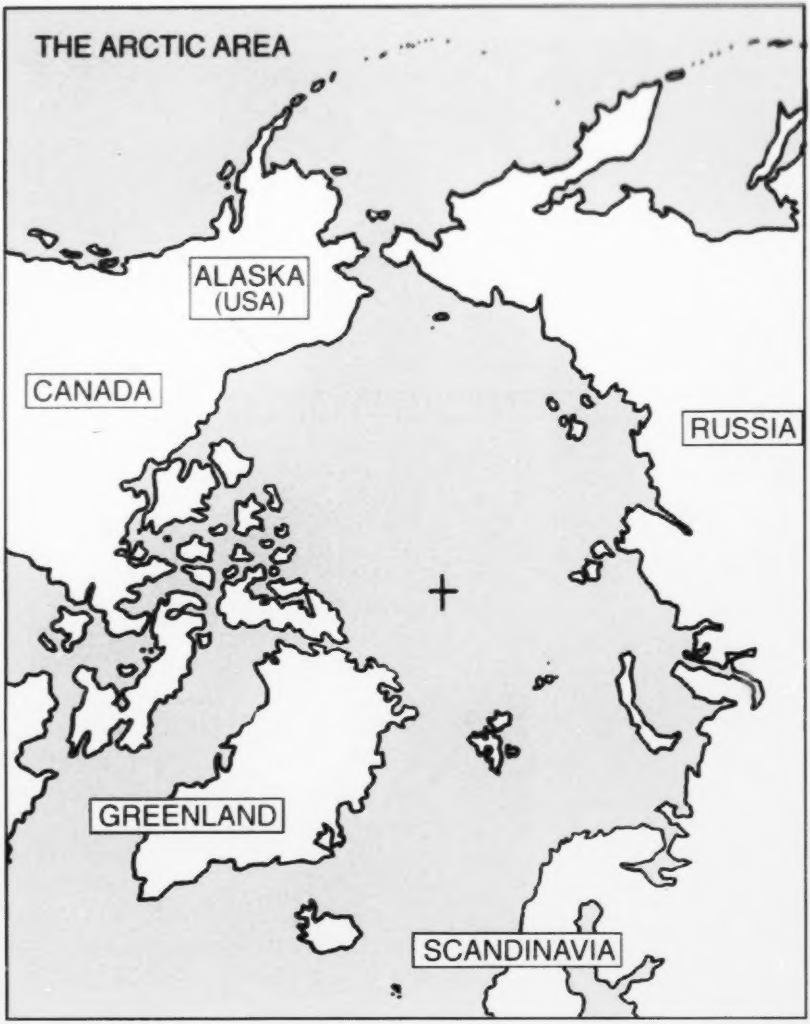
Andrew Gray, anthropologist, is former director and at present board member of IWGIA.

Jens Dahl, anthropologist, is the director of IWGIA. Before that he was a lecturer at the University of Copenhagen, Department of Eskimology.

Lola García-Alix is a sociologist and is working as Coodinator of the Human Rights Programme at the IWGIA International Secretariat. She is also the administrator of the Human Rights Fund for Indigeous Peoples.

PART I

THE INDIGENOUS WORLD



Countries/regions covered in this issue:
Alaska, Nunavut (Canada), Greenland, Russia, Sápmi

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ARCTIC

ALASKA

The Venetie Case

In 1997, the most important event impacting Alaska Natives was the U.S. Supreme Court hearing of the Venetie Case on December 11. At stake in the case was whether or not the land owned by the *Neets'aii Gwich'in* Athabascan Indian villages of Venetie and Arctic Village were 'Indian Country' under American law. 'Indian Country' is a term used in the American legal system designating the geographical area an Indian tribe has jurisdiction over. The Ninth Circuit court of Appeals ruled in late 1996 that the Venetie tribal lands were indeed Indian Country and that the tribal government had jurisdiction over their 1.8 million acres of land. The broad implications of this ruling were that other Native villages in Alaska also had jurisdiction over their homelands. That ruling prompted the Alaska State Legislature to appropriate one million dollars to be used for legal expenses to attempt to get the Supreme Court to hear the case. This move prompted an outcry from the Alaska Native community because of the legislative budget cutting for programs essential to rural Alaska and Alaska Natives that was taking place at the same time the legislature appropriated money to fight the Indian Country case.

Twenty other states, as well as the Territory of Guam and the Commonwealth of the Mariana Islands, supported the State of Alaska by filing amicus curiae ("friends of the court") briefs with the Supreme Court. Many Native tribes and organizations from across the U.S., including the Navajo Nation, the largest Indian tribe in the U.S., filed briefs in support of Venetie. Two Alaska Native corporations formed under ANCSA filed briefs saying that the Venetie lands should be considered 'Indian Country' but that the status should not apply to ANCSA corporation-owned land. Those corporations were Koniag, Inc., the regional corporation for the Kodiak Island area, and Shee Atika, Inc., the village corporation for Sitka.

There are 226 federally recognized indigenous village tribes in Alaska who have believed that they have the same jurisdictional authorities as Indian tribes in the contiguous forty-eight states. The State of Alaska has maintained the Alaska Native Claims Settlement Act of 1971 (ANCSA) powers. Under ANCSA, twelve regional Alaska Native-controlled for-profit business corporations and over 200 village

Venetie Village Council Meeting - circa 1939. Left to right: Ginnis Golon, Jimmy Robert, Jonas Robert, Elijah John, Andrew Robert, Peter Robert, John Fredson. (Courtesy Alaska State Library)

business corporations were established to receive legal title to aboriginal homelands. The Gwitch'in had a 1.8 million acre reserve set aside by the U.S. government in 1943. The reserve was abolished by ANCSA but the Gwitch'in were able to opt out of ANCSA by a vote of their people and transfer title to the former reserve to the combined tribal

governments of Venetie and Arctic Village. An attempt by the tribal government to impose a business tax on a contractor hired by the State of Alaska to build a new school in the village of Venetie began the case in 1986. The State of Alaska maintained that the tribal government had no authority to impose taxes on its land claiming that authority had been relinquished in ANCSA.

The U.S. Supreme Court hearing marked a first for Alaska Natives. Heather Kendall-Miller, a Harvard-educated Athabascan Indian attorney, argued the case for Venetie in the Supreme Court. She thus became the first Alaska Native to ever argue a case in the United States Supreme Court. Kendall-Miller, who is employed by Boulder, Colorado-based Native American Rights Fund's Alaska office, also presented the case to the Ninth Circuit Court of Appeals. Just six years out of law school, she faced the State of Alaska's powerful Washington, D.C.-based attorney who had been before the Supreme Court 25 times before. She became a hero and role model for thousands of Alaska Natives, many of whom found their way to Washington, D.C. to observe the Supreme Court hearing. Among the other supporters were tribal members from Venetie and Arctic Village. Ernest Erick, a former chief of the village of Venetie, beat a traditional drum on the steps of the Supreme Court building prior to the hearing. Legal experts and supporters alike agreed that Kendall-Miller presented the case very well on behalf of Venetie.

On February 25, 1998 the U.S. Supreme Court issued its ruling in the Venetie case. In a unanimous ruling the court overturned the Ninth Circuit decision and ruled that Indian Country does not exist in Alaska. In a ruling written by Justice Clarence Thomas, a justice who did not to ask a single question during the December court hearing, the court said that the Venetie lands were not 'Indian Country' and that any such status had been revoked in ANCSA. Soon after the Supreme Court ruling, the governor of Alaska announced the appointment of the State Commission on Rural Alaska Governance and Empowerment, made up of a combination of Alaska Natives and non-Natives, and charged with making recommendations for improving self-reliance and self-government in Native villages in light of the Supreme Court decision.

Subsistence

The decades old issue of Alaska Native subsistence rights was approaching a new milestone in 1997. A December 1998 federal take-over of fisheries management in Alaska is scheduled if the State does not come into compliance with the Alaska National Interest Lands Act of 1980 (ANILCA). Under ANILCA, rural residents of Alaska, who include most Alaska Natives, have a preference for subsistence purposes for the taking of fish and game.

Aboriginal hunting and fishing rights were extinguished in Alaska by the Alaska Native Claims Settlement Act of 1971. They were partially restored in the Marine Mammal Protection Act of 1972 which provides Alaska Natives with the right to harvest sea mammals. In ANILCA rural residents were given a preference for fish and game for subsistence purposes. An Alaska state law was passed that agreed with ANILCA but that law was struck down by the Alaska Supreme Court in 1990 as being contrary to the Alaska State Constitution which guaranteed equal access to fish and game by all citizens of Alaska regardless of where they lived. As the state was then in opposition to federal law the federal government took over management of game on federal lands in 1991. The management of fish has been pending with several extensions being given, postponing the federal take-over of fish. The final extension expires December 1, 1998. In 1997 Governor Tony Knowles appointed a Subsistence Task Force to recommend a solution. The task force recommended that the Alaska Constitution be amended to provide for the rural subsistence preference and thus in compliance with ANILCA. Such an amendment would have to be put to all citizens of Alaska for a vote. That election would have to be approved by the Alaska State Legislature in order for it to take place. The Legislature has been unwilling to call such a vote leaving the possibility of a complete take-over of fish and game management increasingly likely.

Alaska Native Medical Center Opens

On June 2, 1997, the new $168 million Alaska Native Medical Center opened in Anchorage. It is expected to serve all of the 100,000 Natives living throughout Alaska. The new facility is the largest and most ad-

vanced of any in the United States controlled by the U.S. Indian Health Service. The hospital replaces the outdated hospital built in 1953 as a tuberculosis sanatorium. The old hospital was damaged during the Great Alaska Earthquake of 1964 and efforts have been underway since that time to get a new hospital built. The new hospital occupies more than 370,000 square feet, more than twice the size of the old one. State-of-the-art medical technology is found throughout the new facility.

A consortium of Alaska Native tribes are currently negotiating details with the U.S. government for the take-over of management of the new hospital as authorized under the Indian Self-Determination Act of 1975. The hospital may come under Native control as of 1999.

CANADA

Northwest Territories and Nunavut

The Northwest Territories experienced difficult economic times in 1997, as budget cuts from the federal government to the territorial government were passed on to the municipalities and to individuals and families. The NWT's budget was cut more deeply, in percentage terms, than that of any other provincial/territorial jurisdiction in Canada – despite the region having a very high level of social problems.

The Government of the Northwest Territories (GNWT) cut its budget by $100 million, or almost 10 per cent. Priests in the Anglican Church later scolded the GNWT for its obsession with deficit reduction, blaming cuts to social assistance, health care and education for the general feeling of insecurity and despair in the north. The government admitted that, among other problems, 25 per cent of NWT residents are without adequate shelter and there's a need for at least 4,000 new housing units.

The tempo of planning for the creation of the Nunavut Government and Territory on April 1, 1999 increased as the year went by. The 3 parties to the Nunavut Political Accord – the Government of Canada, the GNWT and the Inuit land claim corporation Nunavut Tunngavik Incorporated (NTI) - reached agreement on the design of the Nunavut Government recommended by the Nunavut Implementation Commis-

sion (NIC). The NIC's reports 'Footprints in New Snow' and 'Footprints 2' had called for the creation of a streamlined, decentralized government, with at least 50% Inuit employment at all levels during the start-up period and representative levels (85%) in the future.

The task of implementing the NIC's plan had become a political football during 1996, and the tension between the 3 parties persisted until April. Almost a year behind schedule, Jack Anawak – the member of the federal parliament for the governing Liberal Party – was appointed Interim Commissioner and given a $10 million budget to establish the Nunavut Government. Anawak resigned his seat in the House of Commons just before a federal election was called (in which he was replaced by fellow Liberal Nancy Karetak-Lindell.) Critics noted that while Anawak was a high-profile Inuit politician, he had no management training or experience.

Discussions began between the federal government, the Office of the Interim Commissioner, the GNWT and NTI with respect to the amount of the Nunavut Government's first budget.

The design of Nunavut's political system was decided upon over the course of the year. In May the residents of Nunavut participated in the world's first public vote on the principle of having equal numbers of men and women in a legislature. The NWT has the lowest percentage of women legislators of any jurisdiction in Canada, and the NIC had proposed a system of two-member constituencies where each adult would vote for both a man from a list of male candidates and a woman from a list of female candidates. The proposal was defeated, for reasons elaborated on in an article in *Indigenous World* 3/4/97. It was later decided by the three parties to the Nunavut Political Accord that Nunavut's legislature will consist of 19 single-member constituencies.

The Inuit land claim corporation NTI took two important actions to safeguard Inuit rights during 1997.

In September NTI filed an application with Federal Court of Canada to challenge the 1997 turbot quotas allocated to Davis Strait fisheries by the federal Department of Fisheries and Oceans. NTI said the fisheries ministry ignored the provisions of the Nunavut Land Claim Agree-

ment in allocating those quotas, and the court agreed – and overturned the federal Minister's decision with respect to the quotas.

NTI's frustration with the members of the Legislative Assembly of the NWT, especially with respect to issues to do with the creation of Nunavut, came to a head and NTI cited "failing by the ordinary members" when it set up a 'shadow cabinet' to monitor the actions of the GNWT.

The most important story in the western NWT in 1997 was the ongoing attempt to find a resolution to the region's constitutional deadlock. Once Nunavut is created the remaining part of the NWT will have a majority of non-aboriginal residents, with the aboriginal population divided between different First Nations, Metis, and Inuvialuit (the Inuit of the Mackenzie Delta region). Finding a constitutional formula which both satisfies the different aboriginal groups and yet doesn't upset the non-aboriginal residents – some of whom are openly hostile to aboriginal self-government aspirations – has so far proved impossible. It is not yet clear whether the western NWT will have a new constitution – or even a new name – by the time Nunavut is created on April 1, 1999.

GREENLAND

On September 19, at the opening of the fall session of the Greenland Parliament, the Premier of Greenland, Mr. Lars Emil Johansen, resigned after 25 years in politics. Mr. Johansen, who is known for his important initiatives in re-structuring the major Home Rule owned corporate companies (discussed in previous issues of The Indigenous World), left politics in order to assume the responsibility as Vice-Managing Director of the major Greenland fish processing company, Royal Greenland Ltd..

Following the resignations, Mr. Johansen was immediately replaced by the Chairman of the Greenland Parliament, Mr. Jonathan Motzfeldt, who was elected Premier by an unanimous Parliament. Mr. Motzfeldt held the position as Premier of Greenland through the first 12 years of Greenland's 18 years of Home Rule. It was a former minister in the

very first Home Rule government, Mr. Anders Andreassen, who replaced Mr. Motzfeldt as the Chairman of the Greenland Parliament.

The government shuffle did not call for any changes to the constitution of the government which is based on a coalition between the social democratic Siumut Party and the more liberal Atassut Party. The political accord between Siumut and Atassut was re-negotiated, however, and the shuffle also resulted in the internal replacement of one Siumut minister as well as a few changes with respect to the portfolios.

Mineral Resources

Premier Johansen left the political arena only after successfully negotiating an agreement with the Danish government which gives Greenland the responsibility for the administration of the mineral resources in Greenland. A mile stone in Mr. Johansen's political career and a long term goal of the Greenland Home Rule Government, the agreement provides for the transfer of the mineral resources administration from Denmark to Greenland.

The question of the right to oil and mineral resources in Greenland has been an issue of debate since the very preparation for Home Rule in Greenland. The Home Rule Act states (cf. Section 8 (1)) that the resident population of Greenland has the fundamental rights to the natural resources of Greenland. Nonetheless, Danish politicians have - over time - felt obliged to underline that the subsurface rights belong to the Kingdom of Denmark or the Unity of the Realm.

In Greenland, the new agreement is seen to provide for a much clearer understanding that the minerals and subsurface rights belong to Greenland, even though the construction of a Joint Commission on Mineral Resources, in which Greenland and Denmark hold a so-called double veto-right, is maintained.

The implementation of the agreement, which has now been prepared by Premier Motzfeldt, is only awaiting an amendment to the Danish Mineral Resources Act to be effectuated by the Danish Parliament in the spring of 1998.

Conservation of Living Resources

The sustainable use of the living resources in and around Greenland and the conservation and management of the natural environment and biodiversity is of highest priority.

In order to provide the scientific basis necessary to ensure a high quality of monitoring and assessment of the resource base, the Greenland Home Rule Government established the Greenland Institute for Natural Resources, Pinngortitaleriffik, in 1995.

Pinngortitaleriffik, which is based on the former Greenland Fisheries and Environmental Research Institute, is responsible for the provision of research-based expertise and advice to the Department of Fisheries, Hunting, Industry and Agriculture, to the public and to those international organizations and fora that Greenland is associated with.

In February 1998, the institute moved to brand new facilities donated by a private Danish charity foundation sympathizing with the overall objective and responsibility of Pinngortitaleriffik. The physical framework of the Institute is now in the form of a beautiful building designed specifically to suit its purposes. It houses both the administration, laboratories and a variety of other research facilities and plans are underway to build accommodation for researchers who are in Greenland on a temporary basis next to the institute.

The Research Institute has approximately 40 staff members, half of which are academically trained. The organizational structure is such that one department is engaged in research concerning fish and prawns and one department deals with marine mammals and birds. The Institute is directed from the Department of Administration which has an affiliated public relations secretariat. Funding for administration and research stems from the Home Rule fiscal budget and from external project funds. With the purpose of carrying out research in the marine environment, Pinngortitaleriffik additionally runs a trawler and a research vessel, both designed to suit the particular research purposes at all times.

Sustainable Use of Resources

Greenland has a long tradition of applying different management regimes based on scientific research as well as expertise of the hunters

to the management of the most important resources such as fish and marine mammals. Research is typically carried out in close cooperation with the hunters and fishermen, who are both knowledgeable about and highly dependent upon the resources.

A large part of the Greenland population bases its livelihood on the harvest of living or renewable resources. However, there are limits, in the biological sense, as to the capacity of the individual species. The main objective of the work carried out at Pinngortitaleriffik is therefore through scientific research to establish a realistic and sustainable harvest level for the socio-economically or culturally important species. This is particularly important where national or international interests are at stake - and where immediate as well as long-term concerns in relation to the sustainable management of a particular resource becomes an issue.

International Obligations

Many resource and environmental issues have to be dealt with at a regional or global level and most of the stocks that are harvested in Greenland are shared with neighbouring countries. To comply with international standards and in the interest of Greenland with respect to the sharing of the resources, Pinngortitaleriffik therefore has to join international research cooperation and to participate in international scientific working groups aiming at joint management.

As Greenland is extremely dependent on a sound management of its living resources a lot of effort and funding is put into scientific research and the development of management schemes.

Arctic Council

Greenland is actively taking part in the newly established Arctic Council which has as one of its main objectives - the cooperation among the Arctic states on projects which will broaden the scope of sustainable development.

The importance and value of the Arctic Council from a Greenland perspective is indeed measured in the fact that indigenous peoples in the Declaration and in practice have been granted a special status as Permanent Participants. A status which goes far beyond observer sta-

tus in terms of active participation in the work and decision-making of the Council.

One of the major problems that the Arctic Council has had to deal with before it can actually begin its work on substantive issues is precisely which non-governmental organizations may become observers to the Arctic Council and what role they may play. After a lengthy process of negotiation, the Arctic States only recently adopted a set of provisional rules of procedure for the Council to be approved by the Arctic states' foreign ministers at the next Ministerial Conference of the Arctic Council to be held in Canada in September.

Whereas the Council's predecessor, the Arctic Environmental Protection Strategy, which has been incorporated into the Arctic Council, has had only minor discussions of the observer issue, it has taken up a fair amount of energy and space in the Council. At the same time, the number of organizations interested in becoming observers to the Council work is steadily increasing.

The problem is that on the one hand some countries, including Greenland, fear - for valid reasons - that organizations engaging in activities or flagging opinions which may be harmful to the Arctic peoples and their particular culture and livelihood, may suddenly appear as observers to the Arctic Council. The experience in Greenland is simply that some organizations cannot be trusted.

On the other hand, some states are very dependent on a good relationship with non-governmental organizations and the publicly founded constituencies and therefore are prepared to support them.

The observer issue has basically been blocking the Council's ability to do any substantive work before the Rules of Procedure were in place. Therefore the actual work of the Arctic Council under the chairmanship of Canada will barely have been commenced before the first actual ministerial meeting under the Council which will take place in September. At the ministerial meeting Canada will pass on the chairmanship to another Arctic state.

In order to gain time and momentum, Canada therefore decided to kick-start the planning of a sustainable development programme, to be directed and facilitated by the Arctic Council, by arranging a Conference on Sustainable Development in Whitehorse. The conference

will have participants from all the Arctic States plus other interested parties.

KNI Education and Development Project

One of the projects that Greenland will be presenting at Whitehorse is the KNI Pilersuisoq project entitled "Time to act and do business". The project deals with education and training as well as development as its major components and is designed to have an international dimension aside from the very community founded image.

One of the first initiatives with respect to education and training was the recent gathering of 54 of the store-managers from the coastal communities in Nuuk to discuss the implications of the project and future prospects for the KNI Pilersuisoq with politicians and business organizations. What characterizes the project is namely that the communities are at the core of the project. In addition, KNI Pilersuisoq aims to ensure a better quality of work of the company though the personal involvement and influence of the employees, which in the long-term should also provide for a higher quality of life.

KNI Pilersuisoq has ambitions to ensure their project an international dimension in the sense that the company sees an opportunity to export some of the ideas and concepts through development agencies such as the Danish Danida. Danida already has a strategy for support to indigenous peoples which was developed in cooperation with the Greenland Home Rule Government and which has as one of its objectives at the national level to include, when possible, Greenland companies in the provision of development assistance.

The presentation of the project at the Whitehorse conference underlines the new trend of the company which has to do with the fact that the company is becoming more self-reliant and is generating surplus energy to do experiments. The company has also been invited as the first organization to participate in the Greenland - Canada exchange arrangement which is a pilot project in which one or two students, company workers or civil servants will travel first to Canada to study equivalent facilities. The second phase of the project will evolve around the visit to Greenland of one or two persons from northern Canada.

Increasing International Orientation

One example of the increasing international orientation is the fact that Greenland has now established a Trade Council to coordinate and facilitate development within the area of international trade. The Trade Council consists of a group of business leaders and experts appointed by the Greenland Home Rule Government. The first task of the Trade Council is to prepare a business delegation to participate in an official visit by the Premier of Greenland to China and Japan.

An important implication of Greenland's desire to participate in international affairs in a general sense is the need for language training. To accommodate the need for an improved standard primarily in terms of the international common negotiation and trading language, English, Greenland has established and re-established its both new and former arrangement with Canadian Universities to which Greenland is sending an increasing number of students for shorter or longer stays.

Internally, Greenland is preparing the public language-wise for an increased international engagement through the newly established 'Language Centre' - Oqaatsinik Pikkorissarfik which deals with the development and provision of a variety of language training facilities. Very importantly, the centre is also engaged in the development of facilities to provide language training in Kalaallisut or Greenlandic.

In the course of an increasing need and desire for cooperation between Greenland and Canada not to mention Alaska and Chukotka, The Greenland Home Rule Government has decided to open a representation in conjunction with the Danish Embassy in Ottawa to facilitate the contact and information dissemination between Canada and Greenland which is becoming more and more important. The actual decision was sparked by a visit by a Canadian federal minister to Greenland, which was also the source of inspiration to establish an exchange arrangement between the two countries.

ICC to Realize Inuit Spirit for Global Partnership

At the NGO-level the Inuit Circumpolar Conference also aims at increasing the level of international awareness and cooperation - particularly among Inuit of the four Arctic nations in which Inuit cur-

rently live. ICC is seeking a broad and high level international participation at the General Assembly this summer under the slogan: Inuit Spirit - for Global Partnership.

ICC together with the Greenland Home Rule, IWGIA and other organizations based in Copenhagen as well as Members of Parliament and other individuals have been instrumental in organizing public hearings on the living conditions in Chukotka and northern Russia. The Danish Ministry for the Environment is providing financial support for projects concerning capacity-building in Russia. In Greenland, a local ICC affiliated network collected clothing and money to Chukotka in solidarity and respect for the indigenous peoples in the region faced with extremely harsh living conditions of.

ICC is currently working with indigenous peoples of Belize to establish Belize Indigenous Training Institute (BITI) a centre for training and capacity-building in Belize. The project is co-sponsored by Danida and one of the long-term goals is to open the facility to the indigenous peoples of neighbouring countries.

General Election to the Danish Parliament

The recent general elections (March 11) to the Danish Parliament did not provide for any major changes in terms of the Greenland parties' political representation. Greenland's two seats have traditionally been divided between the Siumut and the Atassut parties that are now in coalition and continue to be so after the election. The big surprise, however, was the tremendous personal victory of the fairly unknown young woman politician representing the Atassut party. From a very recent career in the municipal council of Nuuk, the capital of Greenland, the 26 year old Ellen Kristensen managed to get the highest number and more than 4000 personal votes. She thereby defeated the Atassut member of the Danish Parliament since 1977, Otto Steenholdt. Ellen Kristensen is the first Greenland woman elected a member of the Danish Parliament - and very symbolically in the very year which marks the 50th anniversary of women's voting rights and eligibility in Greenland. The Member of Parliament for Siumut for the past 11 years, Hans-Pavia Rosing, was reelected.

Cautious Talk of Independence

An interesting aspect of the election campaign has been the left wing party Inuit Ataqatigiit (IA) party's flagging of independence as one of their major goals. IA has never fully approved of the Greenland Home Rule Act of 1979, and during the recent campaign the party questioned the very concept of Unity of the Danish Realm, claiming it realistic and necessary to gain total independence within the next 15 years at the latest. In the mean time, IA promised to strive for a renewal of the partnership with Denmark which is believed to be outdated and a reminiscence of colonial times. One of the arguments being that Greenland has already gained more space to manoeuvre nationally and internationally, but that this has not yet been formalized - or formally recognized.

Independence has been an issue of debate in different fora during the past year. Its supporters are found among individuals devoted to both Siumut and IA, whereas Atassut continues to support the Unity with Denmark. The debate so far has been characterized by being more emotional and populist than serious and factual in nature even though there have been attempts to establish an ongoing debate founded in a working group. Independence is often talked about as a long-term or an eventual goal and often considered to depend on Denmark's treatment of Greenland in general terms. It should be underlined that talks on independence never involve the separation from the Danish monarchy and the beloved Royal family. Finally, it should be mentioned that the Premier effectively rejected the idea of pushing for changes to the Unity of the Realm in his opening-speech to the Greenland Parliament. The Premier stressed that the Greenland Home Rule Act provides for sufficient flexibility in the partnership between Denmark and Greenland, a view which is fully shared by the coalition partner Atassut.

One of the motivations for as well as problems with the discussion concerning independence is that the very meaning and possible consequences of independence does not appear to be very widely understood. For example, independence is rarely considered to include economic independence and thus the discontinuation of the Danish core funding (block grant). In this connection it should be mentioned that Denmark has generally reacted positively to the idea of Greenland

eventually becoming independent from Denmark. During the recent election campaign one of the Danish opposition leaders suggested the establishment of a new permanent body consisting of representatives from the Danish, Greenland and Faeroese governments and parliaments to facilitate the discussion of current issues and concerns between Denmark, Greenland and the Faeroe Islands. This is notwithstanding that such a Royal Council in effect already exists inasmuch as the three government leaders who met in Faeroe Islands in spring plan to meet in Greenland in July.

Greenland is currently negotiating the level of the core funding for the next three years. All parties and all candidates to the general election expressed interest in maintaining the current level or increasing the funding at the same time as most candidates from left to right felt that Greenland should have more influence and weight with respect to international affairs of interest and importance to Greenland. A demand which is directly linked to the United States military air base in Thule, and the rather unfortunate handling by Denmark of recent years' disclosures by the media and individual experts concerning the presence of American military in Greenland.

More Greenlanders, Fewer Foreigners

Interestingly, the talk of independence (which for some participants has sometimes had a tinge of racism against Danes working and living in Greenland, although the majority of others engaging in the discussions have distanced themselves from any racist views) takes place at a time where there are generally fewer foreigners - primarily Danes and Faeroese - living in Greenland. The figures from January 1, 1998 released by Statistics Greenland reveal that the number of persons born outside Greenland has dropped from a high of 9,572 in 1988 to a low of 6,959 in 1998. The total population in Greenland was 56,076 persons and the highest ever. With respect to the number of persons born outside of Greenland one has to go back to 1967 to find a lower figure, namely 6,420.

RUSSIA

The current processes among the indigenous peoples are not unequivocal. 30 peoples of the North, Siberia and the Far East enjoy official status as 'small indigenous peoples of Russia'. Their total number is - according to official statistics - 200,000. Russian ethnographers consider that a higher number of peoples have preserved a traditional way of life on the land of their ancestors. They have listed 49 peoples of the North numbering a total of 1 million. Furthermore, the law on 'the fundamental legal status of the small peoples of Russia' drafted in 1992 lists additional 17 small indigenous peoples of the North Caucasus, adding up to another 100,000.

The listing of these peoples of the North Caucasus as beneficiaries of federal law on the rights of indigenous peoples brought about a strong protest from the leaders of the North Caucasian subjects of the Russian Federation. Laws being drafted at present concern only 'small indigenous peoples of the North, Siberia and the Far East'.

Worsening Living Conditions and Weak Protection of Rights to Natural Resources

Hard facts indicate a worsening of the demographic and the socio-economic situation of the peoples of the North. At a parliament hearing in December 1997, A. B. Nazarov, head of the Federation Council Committee on Northern Affairs and Small Peoples, in his official report noted that the average life expectancy and the birth rate keep dropping whereas infant mortality and mortality due to accidents, unemployment and alcoholism keep going up. At the same time only 3% of the Federal Programme 'Economic and Social Development of the Small Indigenous Peoples of the North' was financed on the 1997 state budget.

The laws on the right of the peoples of the North to natural resources should - according to a presidential decree - be passed "before the end of 1992". But so far nothing has happened. Some specialists believe that in spite of the fact that no special laws on the rights of the peoples of the North have been passed on a federal level, the "existing

38

Russian legislation" nevertheless "constitutes a certain basis for traditional land ownership and land use" (V. A. Kryazhkov).
Special rights to resources in traditional areas by the small indigenous peoples of the North are guaranteed in the Constitution (art. 69, 72). Certain articles in existing legislation of the Russian federation 'On

Kanthy family, Western Siberia. (Photo Alexander Pika)

Nature Protection', 'Fundamental Forest Legislation', 'Law on Specially Protected Territories', 'Law on Wildlife', 'On the Underground' vest the indigenous peoples with special rights concerning the use of traditional renewable natural resources. They provide for compensation for damage inflicted and - in case of complex use - allow access to

several types of resources for traditional use by representatives of territorial communities of indigenous peoples. Recently some regions have drafted and even passed their own laws on the rights of indigenous peoples. But as the regional laws are full of inconsistent terminology and are open to interpretation they do not really enable the practical use of these rights. Unfortunately such laws mean very little for the implementation of indigenous rights. Indigenous organisations in Russia have limited legal experience and little money and do not turn to courts with disputes over interpretation and use of the laws. Only when federal laws on the rights of the peoples of the North have been passed will it be possible that their conceptual system can be unambiguously interpreted, and not until then will branch and regional laws on indigenous rights take full effect.

Meanwhile, traditional employment is dropping and areas fit for traditional land use are shrinking. These indicators are hard to assess, since they have hidden roots. The first indicator is blurred by the fact that the official number of people engaged in traditional activity has dropped over the last five years. Parallel with unemployment, however, the number of indigenous people whose livelihood rests solely on the direct use of natural resources is growing.

Areas fit for traditional activity is also shrinking invisibly. Shrinking is not only explained by growing industrial activity but also by the fact that fishing waters and reindeer pastures are being handed over to companies for commercial use. Industrialisation on a large scale is threatening areas of traditional land use, for example the opening of oil and gas deposits on the Northern and North eastern sea-shelf of Russia. A licensing programmes is already in progress in spite of the fact that nature protection agencies spoke out against it in 1996. The large oil and gas companies have launched a more aggressive attack on the areas of the peoples of the North.

The exodus of educated people and specialists from the North is continuing. In many indigenous communities, hospitals and clinics are no longer functional. TB and infectious diseases now take their frightening toll. All of this makes us pessimistic about the future of the peoples of the North.

Political Mobilisation and External Support

The political activities of the peoples of the North are, however, growing and so is the help from the international community. The new leadership of AIPON (Association of Indigenous Peoples of the North) has reorganised the structure of the organisation. AIPON is now working as a partner on two international programmes: a Canadian programme and the 'Danish-Greenlandic Initiative' (DGI). Both envisage a capacity building in the AIPON organisation and an expansion of its information network. Under the Canadian project, the State Committee of the North (GOSKOMSEVER) and AIPON will exchange experience with indigenous Canadian leaders and civil servants of GOSKOMSEVER with their Canadian colleagues. The DGI co-operates directly with AIPON on the preparation of a project on investigation into the environmental problems of the territories of the indigenous peoples of the Russian North. And with funding provided by the European Commission's TACIS, the Moscow Information Centre for Indigenous Peoples continues with training young indigenous leaders.

The Moscow National Group of IWGIA continues its close cooperation with central and regional organisations of AIPON and helps to organise seminars and prepare legislation for the State Duma and regional legislative bodies. Three IWGIA activists are permanently working as experts of the State Duma on legislation on the rights of indigenous peoples and nature conservation. Furthermore, IWGIA Moscow has established working relations with the WWF. Preparatory work is carried out on a programme for the creation of ethno-ecological refuges for conservation of the traditional lifestyle and habitat of the indigenous peoples of the North. 'Living Arctic' continues to be published for spreading information on the problems of indigenous peoples and the environment in order to create an information platform for harmonising the interests of the indigenous peoples and nature protection agencies in Russia.

SÁPMI

Norway

In South Trøndelag, almost in the middle of Norway, is the southern Sámi area. It is also the reindeer-herding area farthest to the south, and the Sámi way of life in this area is intimately connected to reindeer herding. The southern Sámi people constitute only a small minority in relation to the Norwegian majority and the relations between the two groups have often been characterized by conflicts and hostilities. Apparently the recurrent conflict is about the right and access to resources but it can not be excluded that other hidden factors play a role. It was peculiar to see how the old conflict reproduced itself in a new sentence passed by the supreme court on the 24th of October 1997. Here the Riast-Hylling herding administration lost a case which 27 private landowners brought against them. The herding administration no longer has right to any form of reindeer pastures on the plaintiffs' property north of Aursund in Røros municipality. The supreme court based the verdict on a similar supreme court verdict of 1897 in which the reindeer owners were deprived of parts of the area in question now. The supreme court pointed out that the recent conflict between the landowners and the reindeer owners is connected with the reindeer herds roving and pasturing within the landowners' area towards Aursund. The Riast-Hyllinge herding administration pointed out that the Sámi reindeer owners had acquired the right to pasturing in the area before the verdict of 1897. Further they pointed out that the material which the verdict in 1897 was based on was produced by the Lapp commission in 1892. This commission was not very friendly to the Sámi, its references were characterized by the social darwinistic tendency of the time and there was no Sámi in the commission. The supreme court however considered that the verdict of 1897 ought to be very central in a similar dispute today. The Riast-Hyllinge herding administration thereby lost the case and was ordered to pay the costs amounting to 255,307 Norwegian crowns. The Sámi Parliament condemn the verdict and emphasise the frightening implications of an apparent reversion to the earlier days of colonisation of the Sámi areas. At the same time they fear that this verdict can be the beginning of the final exter-

mination of south-Sámi culture in Norway. In continuation of the 'Aursund-case', the Sámi Parliament and the Cooperation of Norwegian Reindeer herding Sámi (NSR) have asked the Norwegian minister of justice to appoint a special reindeer herding legal committee. There are obvious parallels between the 'Aursund-case' and a similar law suit in the southern Sámiland on the Swedish side (see *The Indigenous World* 1995-96, p. 42 and *Indigenous Affairs* 2/1997, p. 20).

Sámi Parliament

On the 7th of October the new Sámi Parliament opened in Norway. The former president of the Sámi Parliament, Ole Henrik Magga, was not a candidate. The new president of the Sámi Parliament is Svend-Roald Nyestø from the Norwegian Sámi League (NSR) and the new vice-president is Ragnhild L. Nystad also from NSR. NSR got 19 out of 39 seats in the new Sámi Parliament. By this NSR lost its earlier majority but kept its leading position by entering a coalition with Moving Sámi list, Settled Sámi list and Middle-Nordland Sijda. The leading party in opposition is the Labour Party who increased their group from 9 to 12.

Svend-Roald Nystø comes from Tysfjord and not from a Sámi core-area as did his predecessor. Tysfjord is a society where the Sámi are a minority and where ethnicity contributes to the organization of many things in everyday life. Here, reindeer herding is not very prominent, instead a mixed economy is prevalent. Nystø says that he has grown up with one leg in a fishing boat and the other in a stable. On the other hand, the vice-president Ragnhild L Nystad comes from Karasjok which is both a Sámi core-area and dominated by reindeer herding.

Sweden

Sámi Parliament

As in Norway, the Sámi in Sweden held elections for the Sámi Parliament. The constituents elected among eleven parties, which meant that there were many possible combinations to obtain a majority. The final grouping, with 16 out of 31 mandates, consists of the Reindeer owners League, Mii Sámit, Sámi Solidarity, The Sámi, The League of Swedish Sámi and the Hunting- and Fishing Sámi. Per Mikael Utsi from the

Reindeer Owners League was elected president of the Sámi Parliament.

The Sámi Parliament is an independent, elected body. Its fundamental duty is to promote a vital Sámi culture. Culture should be seen in a wider perspective which includes Sámi economic activity. This means that the Parliament will also contribute towards social planning.

One of the important subjects that the new parliament has worked out is a manifesto concerning the Parliament's work from 1997 to 2001. The main issues covered are: Legal Affairs, Information, the Sámi Language, Culture, Education and Research, Trade, Environmental Affairs, the European Union, and Sámi Affairs, International and Nordic Affairs.

It was a very dramatic opening for the new Sámi Parliament on the 28th of August 1997. The Swedish king who was supposed to open the Sámi Parliament but at the last minute the king refused to do so although he was at the opening meeting. The reason for this is the conflict about the small-game hunting in the Sámi areas. In connection with a revision of the Reindeer Law in 1993, the Swedish state decided to take over the right to administrate small-game hunting within the Sámi areas. According to custom, Sámi villages have always had the right to administrate the small-game hunting within their own areas. Disputes have been the result. The Sámi Parliament, the Sámi villages and the main Sámi organisations have protested against the regulation through the years. When it was known that the day after the opening the king had planned to participate in the small-game hunt within the area of Saarivuoma, Sámi village, Olaf Johansson, member of the Sámi Parliament, wrote to the king and asked him not to join this small-game hunt. The king's reaction was that he did not want to open the Sámi Parliament. On the other hand, the king participated in the red grouse hunt. This was an untraditional thing to do for a Scandinavian king as there is a tradition that the crown does not interfere in politics at all.

In Jämtland it has been obvious that there has been a commercialising of the small-game hunt. This is maintained by both the reindeer owners and the civil servants in the county. There have even been

reports about sea-planes landing on mountain lakes where it was forbidden to land. As the hunters' interests have increased the red grouse market has also got more interesting. This year two of the major airlines, Heliflyg and Polarflyg, will fly red grouse hunters to the mountains. Earlier years they had not done this because of protests from the Sámi villages. The Sámi villages were big customers.

Russia

A cooperation between the Norwegian owned Reinprodukter AS and reindeer traders on Kola Peninsula is in danger of being destroyed. There is a big lack of reindeer meat at the reindeer slaughteries in Finnmark in Norway. This has opened the possibility of exporting reindeer from Kola to Norway. Reinprodukt AS pays three times as much as the price on the Russian market, so this trade has improved the situation for the reindeer herding Sámi on the Kola peninsula whose situation is very desperate. The economic situation in the area is disastrous. The unemployment rate is more than 60% and housing conditions are very bad. In 1997 the Kola Sámi sent 904 living reindeer to Norway. This was a small lot but enough to make it possible for the reindeer-trade company Voskhod to pay a salary to 150 workers. This positive development has been stopped by the Norwegian authorities who have raised the tax on reindeer meat. The president of the Norwegian Sámi Parliament Sven-Roald Nystø has asked the minister of foreign affairs to abolish the tax on Russian reindeer meat.

Finland

The reindeer herding Sámi Anni Äärela and Jouni Näkkäläjärvi from Sállevárre lost a law suit against the Finnish state in the district court to have all logging in Kariselkä stopped. This meant that they were compelled to pay the costs amounting to 70,000 Finnish Mark. The amount can be raised to 100,000 mark if the supreme court maintain the verdict. There have also been lawsuits about mining and forestry in other Sámi areas. Lawsuits which the Sámi have initiated to protect Sámi culture and way of life. The Sámi in Finland are supported by the Sámi Parliament in their struggle to strengthen their traditional economic rights. In a note of the Sámi Parliament to the Finnish govern-

ment it says for instance: "It is preposterous that some Sámi in Finland have been forced to act against state authorities and large international companies because the Finnish government has been passive concerning the clearing up of Finnish Sámi rights to land and water. The juridical process has not been acceptable in an international juridical perspective. Especially not as the Sámi adversary in the case has been the Finnish authorities. The land and water rights in the Sámi areas in Finland must be cleared up as soon as possible".

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Sámi Parliament in Norway
Sámi Parliament in Sweden

Countries covered in this issue: Canada, USA

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NORTH AMERICA

CANADA

Impact of the Federal Elections on Aboriginal Policy

The election of 2 June 1997 turned out to be a moral defeat of the Liberal Party. Though the party still governs Canada, it lost many seats and now governs with only a slim majority in the House of Commons. The opposition is, however, badly divided among itself. The right-wing Reform Party is strong in the western provinces of Canada but has been unable to build support in the central and eastern parts of the country, while the separatist Bloc Quebecois dominates opposition in Quebec. The rise of the Reform Party has helped pull the Liberal Party to the right, and Reform's vocal opposition to 'special rights' for aboriginal peoples will not likely increase the government's willingness to develop and implement a strong aboriginal agenda.

That agenda will have to address the 1996 report of the Royal Commission on Aboriginal People (RCAP), which documented a wide range of aboriginal issues including the fact that Canada's aboriginal peoples have the worst living conditions of any groups in Canadian society. The RCAP, which began its work in 1990 after the 11 week long armed confrontation between the Mohawks Warrior Society and Canadian military and police (see *IWGIA Yearbook* 1990 and *The Indigenous World* 1994-95), made sweeping recommendations on how the various levels of government could improve the economic, social and cultural situation of Canada's First Nations.

Supreme Court Rules on 'Aboriginal Title' Term

Indian treaties have always been an important aspect of the relationship between the First Nations of Canada and the Crown, which is now represented by the Federal government. The Canadian law distinguishes between pre- and post-Confederation Treaties and 'modern-day comprehensive land claims settlements'.

Historic Indian treaties are referred to as belonging to the pre-Confederation era from 1725 to 1867 or to the post-Confederation era be-

tween 1867 and 1923 (which are numbered from 1 to 11). In a few instances, Métis were involved in historic Indian treaties, but no such treaties were made with Inuit. In all, 67 Indian treaties were made between the Crown and the First Nations of Canada. They are protected by section 35 of the Constitution Act of 1982. Both the Government and the courts share the view that Indian treaties in Canada are *sui generis* ('of its own kind'). This means that they are neither created nor terminated according to the rules of international law, and they are a different form of contract.

Since the 1960s, an increasing amount of treaty-related cases have developed a number of principles of interpretation by the courts in order to guide them in their considerations of treaties and treaty rights. According to the Department of Indian and Northern Affairs (DIAND), these principles are summarized as follows:

- 1. The treaty should be given a fair, large, and liberal interpretation in favour of the Indians.
- 2. Treaties must be read not according to the technical meaning of their words, but in the sense that they would be naturally understood by the Indians.
- 3. As the honour of the Crown is always involved, no appearance of 'sharp dealings' should be sanctioned.
- 4. Any ambiguity in the wording should be interpreted as against the drafters and should not be interpreted to the prejudice of the Indians if another interpretation is reasonably possible.
- 5. Evidence by conduct or otherwise as to how the parties understood the treaty is of assistance in giving it content.

The comprehensive land claims settlements are recognized as treaties by Section 35(3) of the Constitution Act of 1982. The above mentioned rules do not apply to them as the courts found that the conditions under which these land claims are negotiated stipulate that the involved First Nations are well advised and informed. Therefore, the general principle of neutrality in interpretation should apply. The first of these treaties was the James Bay and Northern Quebec Agreement of 1975. Regardless of the fine principles, many legal and political

disputes between aboriginal peoples and both levels of the Canadian government exist on how to interpret treaties and treaty rights (see reports in *The Indigenous World* since its first issue). A ruling of the Supreme Court in December 1997 in the Delgamuukw case made important clarifications on some of these issues, largely in favour of aboriginal people (paragraph below).

The part of Canada where this ruling will have the greatest impact is British Columbia, where no treaties were ever signed. The British Columbia Treaty Process, which involves the Federal government, the province of British Columbia and the First Nations of British Columbia, was thrown into chaos by the impact of the decision. "First Nations in this province require certainty just as much as business and government. The historic Delgamuukw decision gives us a unique opportunity to resolve how aboriginal title and rights co-exist with the rights of others in British Columbia", said Grand Chief Edward John, a member of the First Nations Summit Task Group. The specific form which that co-existance will take remains to be determined.

Delgamuukw and 'The Rule of Law'

In December 1997 a decision of the Supreme Court of Canada ended the longest running First Nation land claim court case in Canadian history. More than 20 years ago the roughly 8,000 *Gitxsan* and *Wet'suet'en* declared their intention to negotiate recognition of their ownership of, and jurisdiction and self-government over, 58,000 square kilometres in northwestern British Columbia (BC) which is their traditional territory. Years of talks went nowhere, so they opted for legal action. Gitxsan hereditary chief Delgamuukw was the main plaintiff, along with 50 other hereditary chiefs, so the action was named after him.

In a 1987 trial before the BC Supreme Court, the Gitxsan and Wet'suet'en presented a huge body of evidence about their culture, their history, and their relationship to their lands and each other. This evidence was unique in that it was presented by the First Nations people themselves, in their own languages. The richness and power of the

testimony was recorded in Don Monet and Skanu'u's book 'Colonialism on Trial' (New Society Publishers, 1992).

In a decision which could have been written 100 years ago, Chief Justice McEachern ruled that any aboriginal rights which the Gitxsan and Wet'suet'en may have held had been extinguished by the colonial government of BC. Aboriginal rights exist at the pleasure of the Crown, he wrote, and can be extinguished by the Crown if it choose to do so, therefore "The reality of Crown ownership of the soil of all land of the province is not open to question... "

While the First Nations were "eking out an aboriginal life" which "was, at best, nasty, brutish and short", McEachern wrote, Europeans were engaged in "discovery, exploration, settlement and development". The economic imperatives of European colonisation had given rise to legal imperatives in which the rights of First Nations could be extinguished without their knowledge or consent, and without compensation. Moreover, McEachern wrote that the chiefs and elders had presented mere "beliefs" and "matters of faith", rather than "real" evidence. He even volunteered the opinion that First Nations are to blame for their oppression because they have "failed to adapt" to the modern world.

It was the racist tone of the judgement that stunned both the Gitxsan and Wet'suet'en and many non-natives. University of Alberta anthropologist Michael Asch wrote that the decision treated the First Nations "something like wolves", while University of British Columbia anthropologist Robin Ridington wrote that the province "consciously laid on every bit of racist claptrap that they could think of, and he bought the whole package". If a student had written the judgement as an essay, Ridington said, "not only would you write a lot of red ink over it, you would say, 'Look, please come in and talk to me... you have real problems'". Ridington described McEachern as "singularly blind to the unstated assumptions of his own culture" and possessed of "a world view and an ideology appropriate to a culture of colonial expansion and domination".

For precisely these reasons, McEachern became an instant hero to racists right across Canada, and especially in BC. Mel Smith's book

'Our home or native land?', the bible of the anti-aboriginal movement in Canada, lionized the judge and his judgement.

After an inconclusive review by the BC Court of Appeal and another failed round of negotiations, the Gitxsan and Wet'suet'en moved on to the Supreme Court of Canada. There, a slim majority of the court overturned McEachern's judgement - finding instead that aboriginal peoples who have not signed treaties have a constitutional right to own their ancestral lands and to use them almost entirely as they wish, insisting that courts must seriously consider aboriginal evidence presented in the form of oral history, and concluding that a new trial is necessary if a negotiated settlement can't be reached. The Gitxsan declared 'Complete Victory'.

The right wing Fraser Institute took out a full page ad in the *Vancouver Sun* to blast the Supreme Court justices for being unduly influenced by "radical utopian law professors". The ruling "practically gives control of 95 per cent of the BC land mass to about 5 per cent of the population", the institute exaggerated. Gordon Gibson, the voice of the BC right in the op-ed pages of the *Globe* and *Mail*, wrote that the decision "reaffirms that the treatment of natives on the basis of race is not only permitted, but required", and called the ruling "a breathtaking mistake"; the worst example yet of "the pestilence of judge-made law". Mel Smith mourned the demise of "long-established rules of evidence" and "the rule of law grounded on common law principles".

Reviewing these howls of outrage, one observer commented that "[a]n entire dialect of political phraseology that built the careers of most [right-wing politicians] was dismissed outright, laughed out of court".

What impact will the decision have? Prominent BC Chief Joe Mathias has said that "the decision restores a measure of [our] faith in the rule of law". But it should be noted that the Delgamuukw decision passed by the thinnest of margins: the tie breaking vote agreed at different points with both the majority and the minority views, meaning that the bets are being hedged for next time and the reliably predictive value of this ruling is limited. Still, the Supreme Court's ruling on the

Delgamuukw case should prove to be one of the most prominent - and progressive - judgements in modern Canadian history.

The text of the ruling can be found at http://kafka.uvic.ca/~vipirg/SISIS/Clark/97delrul.html

AFN Elected New Chief

The Assembly of First Nations (AFN), the largest Indian organisation in Canada, which covers 623 bands and nations with about 400,000 'Status Indians', elected a new Chief on 1 August 1997. Phil Fontaine of Manitoba defeated incumbent Ovide Mercredi to become National Chief.

The tenure of Ovide Mercredi can be characterized as cautious tactics in order to achieve improvements through negotiations, with periods of militant rhetoric when protected negotiations produced little in the way of results. This lack of progress and perceived lack of consistency on Mercredi's part resulted in the selection of a National Chief who is seen as being close to the ruling Liberal Party, and particularly close to DIAND Minister Jane Stewart.

Lubicon Lake Indian Nation

Considering the situation of the Lubicon Lake Indian Nation, one is forced to say that nothing new has happened under their sun. Both the Federal government and the government of the province of Alberta kept the Lubicon leadership under Chief Bernard Ominayak busy with empty talks – when talks happened at all. When Ominayak tried to come in direct contact with the new-appointed Minister of Indian and Northern Affairs, her staff could find neither a date for a personal talk nor time for a telephone conversation.

At the same time, the Lubicon are forced to fight on the rumours front. The Japanese-Canadian Daishowa timber company, which holds extensive logging rights in and around the traditional Lubicon area were able to spread the rumour that members of the Lubicon band or some of their relatives from the nearby living Woodland Cree Band or from the Loon Lake Band were willing to work for the company dur-

ing the coming timber cutting season. True or not, the Lubicon have to make an extra effort in order to convince the public and the authorities that they still stand up for their rights. (For more details concerning the history of the conflict please see *The Indigenous World* since 1988 and *Indigenous Affairs* 2/95 and 1/96.)

The Woodland Cree Band is not a historical band, having been founded by the Canadian government in 1989 under the special clause of the Indian Act. The foundation of this band was widely regarded as an attempt to split the Lubicon and to grant the smallest possible reservation and financial compensation. As the economic base of the band is very tiny, it is for the time being more or less bankrupt. The same can be said about the Loon Band. It would not be a surprise if and when desperate members of these bands catch at any straw in order to improve their own situation.

Indigenous Affairs reported last year about the suit against the Friends of Lubicon (FOL). As the court at second instance, in granting Daishowa's injunction, forbade the FOL to continue with the successful consumer boycott in 1996, the company used the last year trying to finally break the FOL by suing them for damages. Daishowa states that the FOL's boycott caused damages of 9 million Canadian $. A negative judgement could ruin FOL members financially as well as seriously damage the ability of support groups to publicize the misdeeds of large companies.

Another big question mark in the ongoing case against the FOL is the work of the Daishowa lawyer John Hunter. He was employed by the law office Davis & Company, which worked for the Lubicon from 1986 to 1988. The court denied an application from the FOL for his suspension from the case due to possible conflict of interest.

Sad as the trial is in general, it has the positive implication that Daishowa does not dare to start the clear-cutting process on the traditional Lubicon territory to avoid even more bad publicity. In order to limit the information of the public regarding its legal efforts, Daishowa tried the role as a censor. The company intervened when the Canadian Broadcast Company (CBC) wanted to re-transmit an interview with some Lubicons that used the word 'genocide'.

In addition, an American Internet company was asked to censor the Lubicon's material and to add 'complementary' information.

While the extensive – and, for the Lubicon, exhausting — legal battles continue, a couple of oil companies are seeking to exploit the large tar sand deposits in Alberta including those in the traditional Lubicon territory and the area which is earmarked for their reservation. A problem of particular concern is that the production of a barrel of syncrude oil demands the ninefold quantity of water, and after processing this water is both warm and sterile. It is planned to use an aquifer, flowing at 700 metres depth, to support the oil production. Both pumping up huge amounts of ground water and returning water which is warmer than is common for the region can cause unforeseeable environmental damage.

As mentioned in *The Indigenous World* 1996-97, various diamond mining companies have gained prospecting rights in Alberta and the Northwest Territories. With both levels of the Canadian government apparently uninterested in settling the Lubicon's land claim, and with the courts firmly on the side of Daishowa, last year's statement (that the finding of kimberlite might be a chance for the Lubicon to achieve a solution for their problems because the mining companies seek clear legal circumstances) was perhaps too optimistic. The Lubicon are too far away from where diamonds have actually been found for the socio-economic agreements made in the NWT to benefit them. Fortunately, the Lubicon are still fighting. Chief Ominayak's powerful testimony during the FOL court case is evidence of this.

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USA

National American Indian Heritage Month

November 1997 was proclaimed by President Clinton as National American Indian Heritage Month. He stated that "The framers of our Constitution incorporated Indian nations into the political and legal framework of this country, forever joining the destiny of the tribal nations with that of the American people. By this action, our founders charged themselves and future generations with the moral obligation to guard the rights and fundamental liberties of our country's tribal peoples as zealously as we protect the rights of all Americans. As we enter the next millennium, we have an exciting opportunity to open a new era of understanding, cooperation, and respect among all of America's people. ... In recognition of America's moral and legal obligations to American Indians and Alaska Natives, and in light of the special trust relationship between tribal governments and the Government of the United States, we celebrate National American Indian Heritage Month."

Despite those noble words, the results of current conflicts between Indian nations on one side and U.S. American authorities and companies are often quite different from high-minded statements.

Blackfeet Nation

After having got prolonged the drilling stop in the Badger-Two Medicine Area three times by the federal authorities, the Blackfeet Nation has reasons to look optimistically into the future (see also *The Indigenous World* since 1994-95). This area is not only a sacred one for the Blackfeet Nation, where they hold special rights according to the treaties between them and the United States of 1855 and 1895, but also one of the last untouched wildernesses in Northern America and a retreat for many threatened plants and animals.

Nevertheless, backed by an insufficient Environmental Impact statement (EIS) of the U.S.Forest Service (USFS) of 1993, two oil companies, Chevron (American) and PetroFina (Belgian-American), obtained drilling permission for nearly the whole area, though the chances of finding oil were estimated at about 0.5 per cent. Their attempts to drill

here against all odds was widely regarded as a Trojan horse in order to create a precedent for the opening of mines in other parts of the northern U.S. and Alaska.

After several years of protests from the Blackfeet Nation and environmental organisations, which gained the support of various European indigenous rights and environmental groups, the federal authorities offered the mentioned oil companies compensation for the disclaimer of the drilling rights. This was the only possible legal way for the authorities to nullify the drilling rights when the USFS declared in the Final Environmental Impact Statement that no drilling permission will be issued for the whole Northern Rocky Mountain Front in future. Chevron has already accepted 8 million US$ in September 1997 and the final approval by Congress is regarded as certain.

The authorities are in contact with PetroFina in order to reach a similar agreement. If PetroFina lives up to the statement of Mr Jean Castelein, Senior Vice President Health-Safety-Environment-Quality of 5 May 1997 that "... Fina Inc (the American subsidiary - the author) and a fortiori PetroFina were in no position to start any activity in the region. Moreover, our company did nor deem itself entitled to intervene in a political debate...", the company is expected to follow Chevron's example.

A withdrawal of the oil companies from the huge Northern Rocky Mountain Front area without resistance cannot be expected. Three associations of local oil companies filed a claim against the mentioned decision of the USFS. But all in all, the situation right now looks better than ever for the Blackfeet Nation. For the keeping of their cultural heritage and the practice of their religion, the final creation of a so-called Blackfeet Traditional Cultural District (BTCD) within the boundaries of the Badger-Two Medicine Area according to the National Historic Preservation Act (NHPA) will be decisive. The creation of the BTCD was announced by US Secretary Bruce Babbitt in 1996.

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http://conbio.bio.uci.edu/nae/knudsen2.html

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Chippewa

After having given up its plans to open a 350 ha large copper-zinc mine in 1986, the multinational EXXON mining company turned back to the area of the potential Crandon Mine in the northern part of Wisconsin in 1994. This large area is still covered with nearly virgin woods and is the homeland for various native peoples such as the Menominee, Potawatomi, Oneida, Stockbridge and Munsee. Their basis of life is still partly hunting, fishing and harvesting the wild rice.

The proposed Crandon Mine could produce copper, zinc and especially poison metals such as mercury, lead, arsenic and cadmium and would be placed in the headwaters of the Wolfe River which is a huge wetland. Even leading EXXON people had to admit that "... it would be hard to find a worse place for a mine." During the planned operation time of 20 to 25 years, the mine would produce about 44 million tons of waste. According to the Environmental Protection Agency (EPA), the necessary dump of 150 hectare and 30 metres depth is hard to control and leaks cannot be avoided. Dumps such as Crandon Mine should be observed for approximately 9,000 years while EXXON only plans to do so for another 40 years after the operation time.

The proposed mine would not only threaten the nearly untouched environment but also destroy the traditional way of life of the mentioned tribes. The promised new jobs in the mine could not be filled up with tribe members to any noteworthy extent as it demands specialized skills to work in a modern, high-tech mine.

On the other side, about 90 per cent of the Chippewa of the nearby Mole Lake Reservation still depend on wild rice harvesting, fishing and hunting. The Tribal Council marked its position regarding the Crandon Mine project by tearing a cheque to pieces. This "dirty money"

was intended to secure EXXON the exploitation rights on the reservation.

The Menominee Elder Hilary J. "Sparky" Waukau commented EXXON's exploitation intention as follows: "As long as those valuable metals are in the ground, we as humans can never rest because the beast of greed and exploitation will be over our heads and over generations who inhabit this part of the country to the end of eternity."

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Big Mountain Hopi-Dineh controversy finally 'solved'?

When Congress enacted the Public Law 93-531 (PL 93-531), it was meant to solve a conflict between the Big Mountain Dineh (Navajo) and the Hopi (Moqui) Tribe. For the public and the legislator, the law seems to be the solution for a century-old conflict between the two tribes regarding pasture rights settling it by dividing the land in question into two parts. About 25 Hopi families and 12,000 Dineh should be relocated into their own parts and both peoples should live divided from each other in future. This was regulated under the so-called "Navajo-Hopi Land Dispute Settlement Act of 1996 (PL 104-301). This PL includes the Accommodation Agreement (AA) of 1988, which leases the Dineh's homeland to themselves for 75 years without the guarantee to prolong the lease indefinitely. The Dineh might stay on their homeland provided they are willing to live under Hopi jurisdiction and under limited economic conditions. The children of the affected Dineh families have not the right to found their own residence, though it is already now obvious that the planned 112 Dineh residences on the Hopi Partition Land (HPL) are inadequate. Further, the Dineh

would have to ask for permission to hold sacred ceremonies. Provided the Dineh would agree to these terms, they might remain on their homeland and the 20 year old construction freeze, that forbids even the smallest repairs of Dineh homes, would be lifted. The Hopi Tribal Council (HTC) preserves all rights to terminate the lease at any time.

What might be regarded by the legislature as a fair solution was rejected by the Dineh from the beginning due to the necessary eviction from their homeland What was widely unknown or perhaps kept secret was the fact that the Hopi and Dineh had been living peacefully together for some centuries. In fact, the so-called "pasture war" was staged by some Hopis eager to earn money on the exploitation rights and, in the background, by Peabody Coal Company (PCC).

Though the Hopi and their ancestors had been the first inhabitants while the Dineh invaded their country many generations ago, they were able to share the land due to their different economic bases. While the Hopi practised extensive horticulture, the Dineh lived as hunters and gatherers and later, after the approach of the Spaniards and their domestic animals, especially as shepherds. In this way, it had not been a problem to live together within the large Navajo reservation that was created in 1882. This fact was often confirmed by both Dineh and Hopi elders and traditionalists. A part of this reservation was the so-called Joint Use Area (JUA) which has caused the conflict between the Hopi and Dineh for about 25 years.

But instead of calling the conflict a controversy between two indigenous peoples, one should call it by its genuine name: A conflict concerning the exploitation rights of huge coal resources in the area and who should profit by them. The HTC was and still is keen on selling the exploitation rights to PCC while the majority of the affected Dineh wants to follow the traditional way of life and opposes the destruction of a large part of their homeland. As their homeland is largely characterized as arid and semi-arid, the Dineh need huge pasture areas in order to avoid overgrazing. On the other hand, PCC exploits the coal deposits strip mining under provisional terms without being bothered with environmental injunctions. As the HTC, which has the formal legislation over the JUA, claimed that the fragile environment had to be protected against overgrazing, it used all methods

to evict the Dineh. Their livestock was often confiscated, most recently in August 1997. The remaining Dineh are frequently accused of violating the terms of the lease by rebuilding ceremonial structures, burying relatives, gathering green boughs and herbs and, as mentioned, the size of their livestock.

The long-standing pressure secured that the majority of the Dineh reluctantly accepted the "generous" re-location benefits and left their homeland within the deadline of 31 December 1996, which was prolonged until 31 March 1997. Many of them live now outside the Navajo reservation and are faced with tremendous social problems. Everybody who refused to sign the AA of 1988 loses all claims to benefits and rights. Despite these bad odds, a small fraction of traditional Dineh families still live scattered over their homeland. Their last hope of finding a fair solution by legal means was a "Fairness Hearing", held in Phoenix from 11 to 14 February 1997. About 150 Dineh representatives attended the hearing and most of them submitted written testimonies. Unfortunately, the procedures were not as fair as the name could imply due to the clear favouritism that the backers of the relocation process enjoyed. But the last hope of fairness was disappointed when Judge Caroll ruled several weeks later that the AA is satisfying the Dineh's needs.

All Dineh families, who still remain on the HPL, will receive a 90 day notice issued by The Office of Navajo and Hopi Indian Relocation Commission (ONHIR). After this period, ONHIR will categorize Dineh individuals and families as those who will "voluntarily" relocate and those who will not. The last group will waive all their rights where to move and what type of house to live in.

During the period of conflict, the Navajo Nation Council (NNC) did not back the Big Mountain Dineh in a desirable manner. On 26 March 1997, NNC released a resolution that "... the NNC has already stated that it is a matter of individual choice whether to sign the AA." The NNC did not participate in the final negotiations of the PL 104-301 either.

If neither the U.S. American authorities nor the HTC think better of it, it must be feared that Peabody Coal Company will reach its goal thanks to its willing Hopi helpers. But as sign of hope and resistance,

a coalition of Dineh and environmentalists was found since the effective date of the AA. The Dineh Kee Watchman was elected chairman.

The Indigenous World also reported in the issue 1993-94 about the Big Mountain case.

The remaining persistent 2,000 Dineh can by supported by protest letters to:
Hopi Tribal Police Chief
Keith Sekacucu
Fax: +1 520 734 9939

Hopi Tribal Council
Chairman Ferrel Sekacucu
Fax: +1 520 734 6665

http://www.primenet.com/~dineh

San Carlos Apache

Since 1989, the San Carlos Apache, the Apache Survival Coalition and the Apaches for Cultural Preservation have been opposing the Mount Graham International Observatory (MGIO), a telescope station on top of the mountain which is sacred to the Apaches.

While most people in the western world are disposed to speak openly and discursively about religious topics, others, as the Apache, are not. In accordance with their conception of religion, only little information is available to the broader public concerning their religion as a whole and especially the religious importance of 'Dzil nchaa si an', the Apache name of Mt Graham. Despite their traditional restraint, 15 medicine men confirmed in a common statement the mountain's place in the Apache religion.

The leading authority of Apache religion and culture of the 20th century, Keith Basso, who was able to use the late Greenville Goodwin's field notes, proved in a large-scale study that Mt Graham is one of the four holy mountains of the Apache religion. Goodwin was a highly skilled ethnographer who lived on the San Carlos Reservation during the 1930s and 40s.

Many sacred and burial places are located on Mt Graham, which is regarded as a pathway for prayers to the heavens. Therefore, medicine man still gather herbs and holy water on the mountain area for healing practices. But now, the Apaches need permission from outsiders to pray on this holy place. Many Apaches are asking whether Moses had to ask for permission to go to Mount Sinai to retrieve the ten commandments.

Permission to build the two already existing telescopes was given under circumvention of the National Historic Preservation Act (NHPA) and various environmental protection laws (see also *The Indigenous World* 1994-95 and 1995-96).

The coalition partners against the continuing construction of observatories organized the Mount Graham Sacred Run on 11 October 1997. The Apache participants run side by side with Indian runners from the Navajo, Yaqui, Lakota, Klamath, Modoc, Ojibwe, Pima, Gila River nations and the Yahoo Band of Snake as well as non-Indian runners. On 13 October 1997, the Student Environmental Action Coalition (SEAC) demonstrated on UA's campus against the project.

Already on 16 August 1996, the President's Advisory Council on Historic Preservation declared the entire Mount Graham observatory project to be in violation of the NHPA due to the project's harm to Apache culture and religious life. Even earlier, 16 July 1996, President Clinton expressed his opposition to the desecration of the sacred mountain: "... the Administration strongly urges the repeal of two riders passed earlier in this Congress that have ill-served the American people and their environment. (...) Second, the Mount Graham rider should be repealed. Mount Graham is a site of importance to native Americans."

Now, after many protest actions, parliamentary objections and series of court cases, the coalition of traditional Apache and environmentalists counted a real success. On 1 November 1997, President Clinton vetoed a congressional earmark of 10 million US$ for two astronomy projects, including funds the White House and NASA say were meant for the telescopes on Mount Graham. An important share would have gone into the University of Arizona's (UA) Large Binocular Telescope (LB), the centrepiece of the whole project.

Though technical reasons were given in order to prevent double structures as the similar Keck Observatory project already exists in Mauna Kea, Hawaii, the Presidential veto should be regarded as a first step in the right direction. San Carlos Apache Chairman Raymond Stanley and White Mountain Apache Cultural Resources Director Ramon Riley sent letters to President Clinton thanking him for his veto.

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Western Shoshone

> "Gold mining today is happening right at my front door. I sit up in my bedroom in the morning and the first thing I see through the trees is drill rigs. It's not a pretty sight. I look at them as death to my people - death to my beliefs. The earth is sacred. The water is sacred. The air is sacred. Gold mining is destroying these things. It's wasting millions of gallons of water. Some companies put it in ponds. Some just release it down the Humboldt River, and it leaves the valleys forever. In ponds, maybe there's a possibility that the water might eventually find its way back to where it came from. But I don't see too much of that." (Carrie Dann, a Western Shoshone elder and indigenous land-rights and environmental activist in her article "Opening the Earth's Veins")

These few words from a woman, who has always lived on her ancestral homeland in Crescent Valley, Nevada, already sketches the Western Shoshone Nation's probably most momentous problem: The intrusion of gold mining companies into their traditional territory. Though both the companies and the Bureau of Land Management (BLM) state that the land in question is public, their arguments are based on very weak legal ground a the BLM has not been able to show how the U.S. had acquired Western Shoshone land titles.

In order to understand the complicated legal situation of the Western Shoshone, one must look into treaties and laws, which were written between the American Revolution and the 1860s. The Northwest Ordinance of 1787 states, talking about the Indians of that territory, (that) "The utmost good faith shall always be observed towards the Indians, their lands and liberty shall never be taken from them without consent; and in their property, rights, and liberty, they never shall be invaded or disturbed, ..." (Journals of the Continental Congress, 32:340-41). As the Western Shoshone National Council is opposing gold mining on the nation's traditional territory, the "outmost good faith" is hard to spot.

As the Ordinance was re-enacted by the first Congress that was convened under the present U.S. American Constitution and has been cited many times in the courts, it is still basic organic law of the U.S. Further, the "Act to organize the Territory of Nevada" of 1861, is worded consistently with the Northwest Ordinance of 13 July 1787 stating: "... nothing in this act shall be construed to impair the rights of person or property pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the U.S. and such Indians..." But such treaty does not exist as the Western Shoshone Nation never ceded or transferred its homeland to the U.S. The Western Shoshone lost their territory due to "gradual encroachment". Therefore, extinguishment is not permissible. The Treaty of Ruby Valley of 1863 is a treaty of "peace and friendship" and not of cession, and therefore still valid

Furthermore, both the United States Federal District Court for the State of Nevada and the 9th Federal Circuit Court of Appeals have affirmed that the treaty "is still in full force and effect." According to

Article six, section two of the Constitution of the United States, "a treaty once entered into by the United States, becomes the Supreme Law of the Land." According to international standards, the only way to terminate the Treaty of Ruby Valley would be a joint statement of Congress and the Western Shoshone Nation as the involved parties. But such statement does not exist.

Neither does the authorities' argument work that Western Shoshone land rights lost their rights to their liberty and territory based on "gradual encroachment." The BLM set the date of the claimed encroachment arbitrarily to 1872. But maps show that at this time the non-Western Shoshone population was still a minority. In addition, the Treaty of Ruby Valley gives no permission to cede land titles under such assumption.

As the Western Shoshone have never given up their status as a sovereign nation and never changed the terms of the Treaty of Ruby Valley and the question of extinguishment was not necessarily an issue during the litigation before the Indian Claims Commission (ICC), the legal land title rests with the Western Shoshone Nation and its government. The final award of the ICC of USD 26 million of 12 December 1979 placed the Government in a dual role of being both a judgement debtor and a trustee for the Western Shoshone; a role which is contradictory to the said treaty. Finally to this point, the Western Shoshone never accepted this payment.

In order to intensify the Western Shoshone's stand for their rights outside the U.S. American court system, the Indian law Resource Center filed a human rights complaint against the United States in the *Inter-American Commission on Human Rights* of the Organisation of American States (OAS) on behalf of Mary and Carrie Dann and the Traditional Dann Family. This complaint is believed to be the first one filed against the U.S. on behalf of American Indians in the Inter-American Commission.

The complaint's main points are that the circumstances of the ICC proceedings from 1951 were fraudulent and that the actions of the federal government violate universally recognized human rights as the right to due process, the right to equal protection of the law and the right to own property. Those actions prevent the Danns from hunting

and grazing livestock and the authorities have denied them basic constitutional rights.

The only response by the U.S. government has been a variety of legal tactics that include asking the Commission to declare the case inadmissible. The Commission has not the power to settle such claims but has the authority to hear and investigate human rights complaints against the member nations of the OAS. A public report will only be made if the Commission decides that a friendly settlement cannot be reached. Through its work, the Commission strengthens the international law of human rights as national law is often discriminatory and unfair.

As mentioned in *The Indigenous World 1996-97*, Oro Nevada Mining Company filed a Notice of Intent with the BLM to conduct exploratory drilling for gold in Crescent Valley. According to Oro's press release of 10 November 1997, the first phase of exploration is complete. As Oro Nevada claimed that the exploratory drillings would cover less than five acres, only a notice to the BLM had to be issued. In spite of the BLM's understanding, mining or exploration related surface disturbance occurred on the land in question. It is hard to find another word either for the carving of a 900 foot and a 3,000 foot road in April and May 1997 or for the drilling of 37 boreholes. It is amazing that the BLM's experts could not find mining or exploration related surface disturbance. All in all, so many boreholes, carved roads and the necessary movement of the rig, further equipment and lorries left traces and other disturbance that easily exceed the "Notice Level" activity of 5 acres. Last but not least, Oro's rig hit a geyser which sprayed hot water 60 ft into the air. It is known that owners' property with a hot spring miles down the valley noted that their flow was reduced for many hours.

Based on the results, Oro is now seeking a joint venture partner to continue drilling even deeper holes around the Dann Ranch and nearby hot springs. Carrie Dann's words in the beginning were meant for Oro's rig in the very vicinity of her home. Oro's so-called "Hand Me Down Project" arouses suspicion that the company is only a Trojan horse for the final invasion of multinational mining corporations into the heart of the Traditional Dann Family's territory.

A part of Oro's strategy is apparently the plan for a land swap. Oro wishes to swap 8,000 acres of its private property in the mountains in exchange for 22,000 acres of Western Shoshone land (so-called public lands) in the flats. This land includes many cultural sites such as the ceremonial area in Section 4 and the hot spring in Section 10.

If Oro Nevada comes through with its plans to exploit the deposits of microscopic gold, more environmental pollution could occur. Bad experience from Placer Dome's (another gold mining company) Pipeline project at Cortez prove that the long-term water quality is getting worse due to contamination by manganese, antimony and boron. The mine also drains the area as the system of pumps and ponds does not work as predicted. In addition, evaporation will be nearly tripled by the ponds, creating permanent ground water loss. Water saturating the ground around some of the facilities is drowning native vegetation in

Pipeline Pit, Cortez Gold Mines (Placer Dome), Crescent Valley, NU, May 97 (Photo: IWGIA Archive)

some locations and causing a salt crust to build up on the surface in others.

The BLM in Elko has several times tried to reduce the Western Shoshone's livestock by confiscation stating that this was necessary as the herds are too large for the fragile environment. The background is to destroy the nation's economic basis and sovereignty. Further, The Traditional Western Shoshone Cattle grazers have always refused to pay the BLM for grazing animals on Western Shoshone territory until the United States presents documentation on how and when the U.S. acquired Western Shoshone lands. A serious attempt to confiscate Western Shoshone livestock was undertaken by BLM Elko in February 1998. The targets were the livestock of Western Shoshone citizens of the communities of Wells, South Fork, Odgers Ranch and Dann Ranch. Due to massive Western Shoshone and international protests, the BLM Elko did not start the action.

The anti-nuclear Shundahai Network under the leadership of the Western Shoshone's spiritual leader, Corbin Harney, continues its protest campaigns against hazardous nuclear waste shipments through the land and subcritical nuclear weapons tests. Last year, two of those tests were undertaken on the Nevada Test Site (NTS). The NTS is located within the boundaries of the traditional Western Shoshone territory according to the Treaty of Ruby Valley.

13 Shundahai activists were convicted for a peaceful road blockade on 3 April 1997. Justice of the Peace Tony Abbatangelo sentenced each of them to make a two hundred dollar donation to Shundahai Network or provide forty hours of community service to it. As the justice stated: "It's common knowledge that radioactive materials threaten water, land and humans."

Both the Shundahai Network and the Western Shoshone strongly oppose nuclear tests and the dumping of nuclear waste at White Mesa or anywhere on indigenous lands. For further details about the "most bombed nation in the world", please also see the IWGIA documents 62 and 68 and the IWGIA Newsletter 3/95.

One of the goals of the Western Shoshone Defense Project (WSDP) is to build up sustainable projects. Current results are the completely "off-the-grid" straw bale office and base camp which uses solar panels and wind generators for the production of energy. As the camp is located on so-called public land about one mile from the Dann ranch, BLM Elko issued a "Notice of Intent" accusing the Western Shoshone and the supporting activists for trespassing. According to the notice, the camp shall be demolished within a short time.

Finally, the Pinyon Education Project for Western Shoshone youth made good progress. 450 trees were planted. During the two week course, about 20 Western Shoshone from various communities were edùcated about the pinyon tree's importance as traditional Shoshone food and the nation's religious and cultural practise.

For further information please contact:
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fax: +1 (702) 468 0237
e-mail: wsdp@igc.org

http://www.alphacdc.com/wsdp
http://www.teleport.com/~amt.planetpeace/wsdp

Protest letters should be sent to:
Bureau of Land Management
District Manager Helen Hankins
Elko District Office
3900 E. Idaho Street
Fax: +1 (702) 753 0255

National BLM Director
Patrick Shea
1849 C St. NW
Washington DC 20240

Leonard Peltier

One of the founders of the American Indian Movement (AIM), Leonard Peltier, is still in prison since he was convicted the murder of two FBI agents after a gunfight on the Pine Ridge Reservation in South Dakota in 1975.

Leonard Peltier has been in prison since 1977. His physical condition has become worse since February 1996 when he had surgery on his jaw to correct an old problem. It turned out that the operation went wrong, complications occurred and several attempts had to be made in order to correct the mistakes.

After this life-threatening experience, Leonard Peltier is refusing treatment and surgery by prison-appointed medical staff and demands immediate medical treatment by an independent specialist. The Oglala

Leonard Peltier, Leavenworth Prison, Leavenworth, Kansas, 1995 (Photo: Worthington, Toronto Sun)

Sioux Tribe Council supports this demand as well as the request for an independent non-governmental second opinion regarding his immediate health condition. Leonard Peltier and his supporters as well as his family demand this examination especially due to the fact that he was misleadingly informed by prison-appointed medical staff that he is suffering from Hepatitis B disease. It was explained to him that this disease is uncurable and would kill him. This wrong information cannot be called anything other than mental torture. Another example of mental torture and violation of religious freedom is the fact that Leonard Peltier's ceremonial skirt towel has been confiscated and thrown away without explanation.

Leonard Peltier's supporters organized a "Knocking on the door" lobby action in Congress speaking to elected people.

Another powerful voice of conscience was heard on 20 June 1997 when former Attorney General spoke on behalf of Leonard Peltier along with his attorneys. He stated among other things that: "I think I can explain beyond serious doubt that Leonard Peltier has committed no crime whatsoever. But that if he had been guilty of firing a gun that killed a FBI Agent, it was in defence of not just his people but the integrity of humanity from domination and exploitation." Government official are keeping Peltier behind bars, "...because they have staked their reputation on it," as Mr Clark said. He added that Leonard Peltier should never have been sent to prison in the first place.

Though the investigation, which were started in 1994, concerning the investigation of the circumstances of Leonard Peltier's extradition from Canada to the U.S.A. in 1976 has now been completed, neither the former Canadian Minister of Justice nor the newly appointed one have taken any decision.

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e-mail: lpdc@idir.net

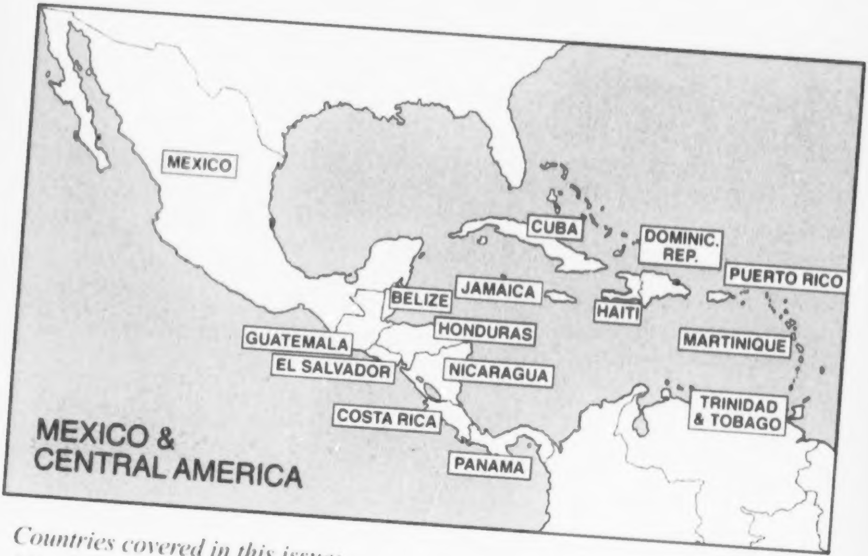
http://www.unicom.net/peltier/index.htm

Support letters for a new parol hearing (see Indigenous World 1996/97) should be sent to:
U.S. Parol Commission
5550 Friendship Blvd #420
Chevy Chase, MD 20815
fax: +1 (301) 492 6941

Letters supporting the demand for medical and religious treatment should be sent to:
Ms Kathleen Hawk
Bureau of Prisons
320 First Street N.W.
Washington, D.C. 20534

Warden Page True
Leavenworth Federal Prison
P.O. Box 1000
Leavenworth, Kansas 66048

Sources
Leonard Peltier Defense Committee, Scarborough
Western Shoshone Defense Committee
Sundahai Network
Timbisha Shoshone Land Restoration Project
Apaches for Cultural Preservation
Blackfeet Support Group
Big Mountain Action Group
Association for the Support of North American Indians
Society for Threatened Peoples, Germany



Countries covered in this issue:
Mexico, Guatemala, Honduras, Nicaragua, Costa Rica, Panama

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MEXICO & CENTRAL AMERICA

MEXICO

Chiapas continues to be the focus of the Mexican indigenous movement's attention. Since the Zapatista uprising on 1st January 1994, the conflict has undergone a complicated process of alliances, clashes and negotiations. The initial fighting was followed by peace agreements and proposals for constitutional reform only to see the dialogue break down once again. Now the Mexican government seems determined to isolate the Zapatistas, to deepen divisions between indigenous communities and to increase the presence of National Army troops in the area. The situation remains extremely tense and many people have the impression that all space for negotiation has now disappeared.

Throughout 1997, the issue of pacification of Chiapas centred around the initiative for constitutional reform formulated by COCOPA on 26th November 1996. This proposal was an initiative of legal reflection on the San Andrés agreements. COCOPA's proposal was accepted by the Zapatistas, whilst the government made an initial 27 observations which were subsequently reduced to 4.

The Zapatistas insisted that they would only accept the draft as presented by COCOPA and, given the government's refusal to accept it in its entirety, the possibility of arriving at an agreement between the two sides was fast disappearing. President Zedillo's government thus presented its own proposal in March 1998. At virtually the same time, the conservative PAN presented a similar proposal for constitutional reform.

Although the government insists that their initiative fulfils the San Andrés agreements and that the changes made to COCOPA's document were purely of a stylistic nature, there are basic issues, for example relating to land issues and autonomy, which have led to a rejection

of the initiative on the part of the parliamentary opposition, the Catholic church, the Zapatistas and a number of indigenous organizations.

Members of the Ejército Zapatista de la Liberación Nacional (EZLN) (Photo: Heriberto Rodriguez)

The Acteal Massacre

On 22nd December 1997, 45 indigenous *Txotxil* were massacred near Acteal, in the Altos de Chiapas mountain range. Twenty one women, nine men and fourteen children, who had been the object of constant and intimidating threats from pro-government (PRI) paramilitary groups, were praying in the local church. According to the many statements collected together by human rights organizations, the massacre had been organized several days previously. At least 60 heavily armed men were involved, who surrounded the church and fired from differ-

ent angles. There are also strong indications that the attackers, which included indigenous Mayans, had the support of the President of the local Chenalhó community and direct participation on the part of the National Army through provision of arms and training to the aggressors.

In actual fact, the massacre was no surprise. The National Human Rights Committee had requested precautionary measures in Chenalhó. State officials played down the importance of initial information on events and later altered or destroyed the evidence.

Following the massacre, the French priest, Michel Chanteau, denounced the events, along with the lack of effort on the part of the authorities to clear up the issue, in a mass. In spite of having worked in the Chiapas region for 32 years, the priest was immediately thrown out of Mexico, as have been 8 other Catholic priests in Chiapas over the past few years.

As part of the government strategy to isolate the Zapatista movement and provide only whatever information it wishes, the Mexican government has, over the past few months, been intensifying its campaign in the media regarding foreign interference in Mexican affairs. At the same time, the issuing of visas has been heavily restricted, as has the free movement of observers within the state of Chiapas, and there has been direct intimidation on the part of paramilitary groups.

The Catholic church has also been the target of a number of criticisms in this respect. For example, on 17th February 1998, the President of the Chiapas State Congress, Jean Carlos Bonifaz Trujillo, accused Bishop Samuel Ruiz in Parliament of 'state treason' for encouraging foreign intervention in Mexican domestic politics.

In fact, the Church, along with a number of NGOs and indigenous organizations, have been requesting the constant presence of international observers. On repeated occasions, indigenous organizations have expressed a desire to see a Red Cross presence in the region, and a desire for work to be carried out in order to appoint a United Nations Special Rapporteur for the Chiapas problem.

The Mexican government's strategy seems very clearly defined in the Chiapas conflict, combining isolation, wearing down and division

of the Zapatista Front, without ruling out the possibility of military intervention in the near future.

Zedillo's proposal to introduce constitutional reform in the area of indigenous rights, which is contrary to the San Andrés agreements, makes the possibility of a negotiated peace even more unlikely.

GUATEMALA

After decades of civil war, the current most important issues for the indigenous movement in Guatemala are to establish itself in the space opened up by the Peace Accords of December 1996, to set national policies, to make the commitments contained in the Accords concrete through negotiations with the government and to develop communal and traditional authorities within the framework of a multiethnic, multicultural and multilingual nation.

One of the most outstanding of these issues over the last year has been the development of the commissions established by the government and the indigenous people's authority, COPMAGUA (the Coordination of Mayan Organizations in Guatemala). The five joint commissions agreed upon in the Agreement on Identity and Rights of Indigenous Peoples (AIDPI) have been set up between the government (represented by SEPAZ, the Ministry for Peace) and COPMAGUA. Within COPMAGUA itself, eight Permanent National Commissions (CNPs) have been set up, of which five deal with the same issues as the joint commissions. The Permanent National Commissions are both a factor of flexible dialogue with the government and also the most representative indigenous people's organizations in Guatemala to draw up common lines of policy, although the main difficulty they are facing is an insufficient lack of coordination between the commissions. In June 1997, a Political Negotiation Council was set up to try to establish better coordination of the work of the commissions. In an effort to overcome the distance between national and regional levels and to achieve better coordination with local organizations, COPMAGUA has begun to set up Regional Councils. This is still in an initial phase, with the first councils being established in Cobán, Huehuetenango, Sololá, Petén and Quetzaltenango.

In a declaration at the end of the year, COPMAGUA stated that, "individual civil servants, and the different State structures and bodies have had no intention of consulting the indigenous people with regard to 'legislative and administrative measures likely to affect the *Mayan, Garifuna* and *Xinca* peoples' " and gave as an example the Law of Protection of National Cultural Heritage and the integration and work of the Committee on the Strengthening of Justice. But it considered the work within the joint commissions to be positive.

COPMAGUA held its Seventh General Assembly on 29th August 1997 in Chimaltenango, in which it was decided to support the initiative for constitutional reform previously presented by the indigenous peoples, as well as to support the members of the different commissions in their negotiations with the Guatemalan government.

The Joint Commission for Recognition of the Official Status of the Indigenous Languages of Guatemala

The Commission for Recognition of the Official Status of the Indigenous Languages of Guatemala was created on 10th April 1997, on the basis of Government Agreement 308-97, and set up on 21st April in compliance with the Agreement on Identity and Rights of Indigenous Peoples. Its mandate was to study and present to the government ways of making the indigenous languages official, given linguistic and territorial criteria.

This commission was the first to complete its work and handed its report in to SEPAZ in March 1998. The report covers the historical background of the languages and includes a referential framework which comprises an analysis of the situation in other countries, up to date information on the situation and condition of each of the languages, as well as a proposal for making indigenous languages official, classifying them at the level of territorial languages, which are those spoken by more than 300,000 people and covering 20 or more municipalities (Q'eqchi, K'iche, Mam and Kaqchikel), community languages which are spoken by less than 300,000 people and in less than 20 municipalities and special languages which are in danger of extinction. A staged strategy was proposed, in the initial stages of which

services in different languages would be provided by translators and there would be training of human resources in the area of indigenous languages.

On the basis of this proposal, the government will have to propose a reform of Article 143 of the Constitution, so that other languages as well as Spanish may be made official, and will have to consider how to put the concrete proposals into practice.

The Joint Commission for Educational Reform

The Joint Commission for Educational Reform has the objective of drawing up a proposal for bringing the education system into line with the project for a multiethnic, multicultural and multilingual nation living within a fair and supportive society, thereby strengthening national unity. The commission must redefine the education system, define central themes and normative legislation in order to establish indigenous education institutionally. During its consultations, this commission has received 31 different proposals and on the basis of these they are now formulating a proposal which will aim to include local decentralization within the educational legislation.

The Joint Commission for Sacred Sites

This Commission was set up in April 1997 with the mandate of formulating regulations concerning the use, conservation and management of sacred sites.

In an initial definition of sacred sites, the Commission concluded that these are vital spaces for the practice of spirituality, where integral relationships between the cosmos, nature and ancestors are established.

They included Mayan and Xinca cities; sites with altars; hills, volcanoes, mountains and rocks; some cemeteries; caves, caverns and grottos; water sources; lakes, pools and wells. For the Garifuna: Atlantic coastal regions and hot water springs. This wide definition reflects a certain maximalist position and has led to the discussions becoming bogged down between the indigenous delegates and the government.

One initial complication in the work was the approval of the Law of National Heritage in 1997, which defines a system of conservation of national heritage. This law was approved with no consultation of indigenous sectors and the commission was, in particular, ignored. This has led to a sense of insecurity in the mandate of the work of this commission, which is why indigenous people have requested the repeal of this law.

The Joint Commission for Indigenous Land Rights

Once the commission was set up - through the Government Agreement - the inclusion in its mandate of, not only communal lands, but of the whole problematic of indigenous people's lands was achieved. The Commission is trying to define and promote a policy of transformation and rural development through viable and sustainable projects and thus hopes to have an impact on issues such as land funds, access to resources, national reserves and support structures for national agriculture.

The commission has come to an agreement with the government that the latter should consider all these proposals. Although there has been some conflict with the government, due to the existence of draft bills of land law regarding which there had been no consultation, the work has recently been progressing, albeit slowly, but in a good climate of negotiation between the indigenous delegates and the government.

The Joint Commission for Reform and Participation

This Commission's mandate was the formulation of proposals regarding the content of legal and institutional reforms guaranteeing and ensuring the full participation of indigenous people at all levels.

Nevertheless, few advances have yet to be made: the commission has not yet managed to come up with a specific definition of its work, nor of the issues to be dealt with, and both indigenous and government delegates have had less capacity for negotiation. The central issues with regard to the representation of indigenous rights are faced with

an unfavourable climate given that the country is embarking upon a period of elections.

The COPMAGUA Commissions

COPMAGUA has set up eight commissions. Five function in parallel with those set up jointly with the government and have the aim of supporting, and providing information to, the COPMAGUA representatives in those commissions. Their work includes the formulation of a consensus on the issues to be dealt with. Once the work of the joint commissions has come to an end, the aim of these five commissions will be to follow-up the commitments undertaken and to propose concrete mechanisms for their implementation (in the case of the recognition of indigenous languages, there is the Academy of Mayan Languages but for the other issues there are still no non-governmental institutions established which can carry out this follow-up work).

The Commission for Constitutional Reform

This commission drew up a proposal for constitutional reform which was presented to Congress in August 1997 as an initiative of law, with the backing of 5,000 signatures. This proposal is currently one of the issues being dealt with by the Cross-Party Committee of the Republican Congress, a body which brings together representatives of all parties to discuss a series of political issues of topical importance, amongst other things, other proposals for constitutional reform.

The Commission for Indigenous Women's Rights

The tasks which COPMAGUA have defined for this commission draw upon different parts of the Peace Accords and include topics such as: the promotion of legislation regarding sexual harassment, as this issue is considered to be of relevance to indigenous women in particular; the creation of an Ombudsman's Office for Defence of Indigenous Women's Rights, including advice services; the promotion of the agreement on the elimination of all forms of discrimination against women; the encouragement of the equal participation of women in development and education projects and credit funds, etc.

The commission has drawn up a draft bill of law to create the Ombudsman's Office for Defence of Indigenous Women's Rights. This proposes the establishment of an autonomous state institution, which will deal only with indigenous women and which will be situated at a communal level. It will also deal with education and awareness raising around rights and work on the defence of rights. Its tasks will include receiving complaints regarding violations of indigenous women's rights, channelling these complaints to the relevant bodies, providing necessary follow up to these cases and providing advice and legal assistance.

The commission has been participating in the National Women's Forum. This Forum was set up on the basis of the Peace Accords in order to provide the space for the formulation of proposals which will enable women to achieve an equitable and real participation at all levels. A coordinating body, attached to SEPAZ and with wide participation, worked throughout 1997 to prepare the work jointly with a number of organizations. As a result of this preparatory work, the First Assembly took place in December 1997 with the participation of 224 delegates (of which more than half were indigenous). The Forum's mandate is to formulate policies and proposals on gender equality. It must discuss and propose a national strategy for the fulfilment of the different aspects of the Peace Accords which concern women.

The Assembly defined four central themes around which to work: civic and political development, social and cultural development, economic development and the creation of new laws and legislative reforms.

The Commission for Indigenous Rights

This commission has not yet managed to define its area of responsibility clearly. Recognition of indigenous rights and communal authorities is one of the most sensitive areas of the AIDPI, because of its potential impact on the reformulation of the Guatemalan State institutions. Furthermore, proposals regarding indigenous rights are difficult to discuss with other sectors of society because of the practice of gaining support through promises of government posts on the part of the

parties. For them, the indigenous leaders form important 'links' between the western system and the indigenous peoples.

Within the framework of fulfilling this commitment, the government is encouraging the establishment of 'Community Peace Courts', with such courts being set up in five municipalities as a pilot project. The aim is to apply "the habits and customs of different communities in local conflict resolution". There was unfortunately no consultation with indigenous people regarding this initiative which means there is a danger that the traditional authorities will be weakened. Nevertheless, in the face of the many issues of justice, this initiative does offer the possibility of resolving local problems more rapidly, especially if relationships with the traditional authorities can be established at local level.

HONDURAS

In the heart of *Tawahka* country, in the region known as Pita, they are intending to commence one of the most ambitious hydro-electric projects in Central America, to be paid for by the Panda Patuca Power Company, with North American capital. The national government considers that this dam, known as Patuca II, will be an important contribution to the nation's energy requirements even opening up the possibility of exporting energy to neighbouring countries. The project will have a capacity of 270 MW and would generate some 1.3 Gwh per year. The dam would occupy an area of 45 square kilometres and would be situated only 12 kilometres from the Tawahka communities.

The Tawahka have a population of 950 people in 5 communities based along the tributaries of the River Patuca and the Moskitia. They fear that this project will have irreversible ecological consequences on a region of high biodiversity, in particular the area of the Biosphere Reserve 'Tawahka Asangni'. The project would also cause significant changes in the lifestyle of the indigenous communities and would negatively affect the basis of Tawahka subsistence.

Up until now, the consultation process for the construction of the dam, which is being carried out by a company called Bioconsult, has not been implemented with the necessary transparency. Meanwhile,

the Tawahka organizations continue their fight in defence of their lands.

NICARAGUA

The European colonization of the last 500 years resulted in widespread, coercive and rapid change. There were, however, a few exceptions. Unlike most parts of Latin America, much of the Caribbean coast of Central America was never really colonized. Eastern Nicaragua became a British Protectorate until the late 1800s. The Mosquitia protectorate was then incorporated rather late into Spanish dominated Nicaragua. The Treaty of Managua of 1860, drawn up between Nicaragua and Britain, provided for far-reaching autonomy of the eastern lowlands. Nicaragua agreed to accord self-rule to the indigenous peoples and Blacks but broke her promises. The situation we witness today is in line with the violation of the Treaty of Managua following the unilateral incorporation of the Mosquitia into the Nicaraguan State in 1894 - without the consent of the indigenous and black peoples.

Almost 100 years later, the costeños (coastal people) should finally have gained autonomy through a concession made by the Sandinista government to end six years of war with the indigenous guerrilla (1981-87). Measures to benefit indigenous peoples and communities included provisions for their land base, respect for their cultures and languages (including their own mass-media and access to higher education), and affirmative action. The division into two autonomous regions (designated by the former FSLN government) prevented Mestizo control of the Atlantic Coast and led to an indigenous-dominated autonomous region in north-eastern Nicaragua (RAAN) and Creole influence in the south-eastern autonomous region (RAAS).

Miskitu indigenous constitute the majority population in RAAN, despite the fact that they only represent a small minority (3%) of the population of Nicaragua. The indigenous are concentrated along the Wangki and the northern coast, as well as being scattered along other rivers, lagoons and the southern coast, interspersed with other communities. The region has major resources such as gold, which is exploited in several mines, forests and rich fisheries.

Today we know that the Atlantic Coast of Nicaragua missed the chance of developing one of the few advanced experiences of self-governance and autonomy in Latin America. The legal framework set up by the former FSLN regime would have allowed for such development, provided the necessary political will was there. Regional autonomy was combined with recognition of the indigenous settlement area and its land-base. On the other hand, the non-recognition of traditional indigenous political authorities and institutions by Autonomy Law 28 was problematic. However, this has so far only contributed to the enhancement of their respectability in the Mosquitia, as the increasingly important role of the indigenous Elder Council shows.

Regional pluri-ethnic autonomy as the long-term solution to the recognition of indigenous historic rights in the lowlands of Eastern Nicaragua seemed adequate to local conditions since the costeños are a multi-ethnic community of six ethnic groups covering half of the state's territory (accounting for 10% of the total population). The recognition of inherent aboriginal rights, such as the collective rights and communal property of Nicaragua's indigenous peoples became a constitutional law in 1987. It proved a limited attempt to eventually break with the euro-centrism which characterized the legal systems of Latin America. Ironically, from 1990 onwards, these achievements could only be defended through an alliance of former adversaries, the Sandinistas and the indigenous movement.

The effects of the armed ethno-nationalist conflict are still felt strongly in RAAN. The victims of the war were mostly civilians and great damage was done to the Eastern Nicaraguan economy. The once prosperous region is now one of the most underdeveloped. The autonomous status of the region did not prevent nearly all the economic resources of the region being held under central government control, nor did it prevent the massive plundering that took place nor the fact that the wealth of the region was sold off cheaply - with no benefit to the costeños. The Eastern regions were further impoverished. The successive autonomous governments of both regions failed to stand up to the sell-off and underdevelopment policy of Managua. On the contrary, some governors followed the lead of Managua's political class and tried to get rich quick.

The implementation of the autonomy law was of the highest priority for all parties who supported autonomy, in order to clarify the sphere of competence of central and regional bodies. But in spite of all the efforts, no progress was made. The autonomous regions urgently needed their own appropriate economic instruments (own budget, own taxes, profits from resources). The main bone of contention is the control of the coast's rich natural resources. The provisions of the statute for the Caribbean Coast were simply not implemented by successive central governments. Former president Barrios de Chamorro quickly forgot her 1990 election promises to honour autonomy.

The current president Alemán - who came to power in January 1997 - is a populist right-wing leader who was accused of restoring a Somoza-type rule. Unfortunately, one faction of the indigenous movement made an alliance with Alemán's party during the 1994 regional elections. This alliance widened the divisions between the three main indigenous factions. Unholy political alliances are unlikely to produce sustainable and substantial concessions. In this case it was a question of the very nature of the alliance partner being fiercely opposed to the hard core of indigenous demands.

Tired of 10 years of false promises, political confusion and total neglect, the indigenous of Nicaragua took the initiative. Referring to the breach of the Treaty of Managua and outright non-implementation of the autonomy law, the indigenous Elder Council declared Eastern Nicaragua a sovereign territory in April 1998. Armed clashes resumed in the Mosquitia. Fighting between the Nicaraguan army and indigenous guerrillas caused the first causalities in May. If a just solution cannot be found then there is a serious threat of a new war.

What can be done to prevent this? How can the deplorable situation of a disrupted project for autonomy be unblocked? The provisions of the 1987 autonomy statute for the Caribbean coast should be implemented fully and without further delay. Regulations should clarify the sphere of competence of central and regional bodies. The autonomous regions need to develop their own appropriate economic instruments and strategies. As a principle, the indigenous movement should keep out of Managua politicking. There is nothing to gain there for them. indigenous and Afro-Americans must focus on their own plans

for future full autonomy rather than getting involved in dull party politics.

All the forces which support autonomy should cooperate in order to produce mutually beneficial results. As a stepping-stone, a firm agreement with regard to the aims and direction of the struggle has first to be reached amongst those defending autonomy. Then all forces must press for change. Unity is the key condition to successfully claiming legitimate rights. The costeños of Eastern Nicaragua need a fair solution, which is finally going to satisfy their demands. The struggle for autonomy needs solid foundations if it is to be successful. indigenous and Blacks can only win if they stop waiting for Managua to take decisions and start to empower themselves.

COSTA RICA

For the indigenous peoples of Costa Rica, the period covered by 1997 and early 1998 was characterized by their organizational consolidation, which was put to the test as a result of a bill of law going through the Legislative Assembly. These circumstances, and the particular dynamic that was generated, brought about the emergence of a national indigenous organization which promises to be truly representative and which marks a new direction of hope for the indigenous movement in this country.

The implementation of the PAPICA project (Project of Support to the Indigenous Peoples of Central America), which is funded by the European Union, has encouraged the creation throughout the region of national indigenous organizations which are capable of channelling the respective project funds. These organizations, known as "National Committees", have developed differently in each country. In some countries, such as Panama and Honduras, existing organizations have acted as their respective National Committees, whilst in others these organizations have had to be created from the base.

In Costa Rica, the PAPICA process led to the creation of the "Asociación Tekra" or "National Indigenous Committee of Costa Rica", which represents all of the indigenous communities of the country and their organizations. Given the collapse or decline of other national

indigenous organizations (Asociación Sejektö, the Association of Indian Peoples - API), Asociación Tekra has been able to fill a real vacuum and has become a vital mechanism of liaison between the indigenous peoples of Costa Rica, due in particular to the significant legal initiatives which have arisen over the last few years. Although this process was commenced in previous years, 1997 was the year which enabled Asociación Tekra to define a true and renewed national indigenous movement.

It all began at the beginning of the 1990s, with the consolidation of the *Ngobes*' demands, in the south of the country, that they should be considered Costa Ricans. The spontaneous movement which emerged, first amongst a few Ngobes in the south of the country, and later spreading to many more, even to other indigenous peoples, achieved its objective one year later, with the "Law of Indigenous Identification" (Ley de Cedulación Indígena), which recognized the citizenship of the Ngobe and all indigenous people, even though they were not recorded at the registry office.

In 1992, the adoption and ratification of Agreement 169 of the ILO encouraged the consolidation of the indigenous movement. The issue of indigenous identity cards had been before the Constitutional Court of the Supreme Court of Justice since 1990 and an historic decision which invoked the Agreement as the basic premise in this issue consolidated 1991's political victory. The adoption and ratification of Agreement 169 undoubtedly created new expectations on the part of the indigenous movement, which became clearly convinced of the importance of the struggle, not only on the streets but also in the Courts and corridors of Congress. These expectations thus resulted in demands on the State to bring national legislation up to date in order to adapt it to a number of different indigenous claims, claims which were now being made within the framework of the rights established in Agreement 169 and which, within the Costa Rican legal code, had supra legal status according to the Constitution of the Republic. In contrast to the ILO's Agreement 107, which in thirty years had only been invoked by the indigenous movement on a few occasions, and only once by jurisprudence, Agreement 169 has become an extraordinary incentive for the indigenous cause in Costa Rica.

It should be noted that, according to Costa Rican legislation, the Constitutional Court's judgements have the power of *erga omnes*, meaning that compliance is obligatory for all citizens. The legal cases invoking violation of Agreement 169, by virtue of the legal status which the legal code bestows on this agreement, means they are also interpreted as violations of the Constitution. Constitutional jurisprudence in Costa Rica has similar powers. The indigenous movement has thus understood the strength that the legal path can have and has thus searched for legal backing to substantiate its political demands. Whilst Agreement 169 has given them strength, the constitutional judgements have amended the legal code, which has led to indigenous people demanding that the laws which most closely affect them be updated.

Thus in 1995, a bill of law entitled, "The Law of Autonomous Development" was presented to the Legislative Assembly and Asociación Tekra was heavily involved in its defence. This bill of law envisaged substantial changes to the 1977 "Indigenous Law" in order to bring it up to date, particularly in the area of territorial rights. The old law had given legal status to the "Indigenous Reserves", describing them as nonseizable and imprescriptible. Nevertheless, although in place for twenty years, the law had virtually never been applied because adequate mechanisms for serving eviction notices (in the case of seizure) had never been identified. This lack of application of the law was also undoubtedly related to the adverse attitude of local authorities with regard to indigenous issues, at least in some areas of Costa Rica, like in Buenos Aires. The bill of law also aimed to bring together, under one law, significant reforms to other national laws in the fields of health, education, natural resource management and justice, to name but a few, in such a way as to draw together the Costa Rican legal code and make it more compatible with the text of Agreement 169.

The draft "Law of Autonomous Development", in response to the Agreement 169 guidelines, which establish an obligation on the part of the State to consult on initiatives which promote and affect indigenous peoples, had to be debated in the communities. With the support of Asociación Tekra, the Legislative Assembly organized the consultation process in two stages. During the first stage in July 1997, 40

workshops were held in different indigenous communities around the country in order to gather opinions on the text. This had been previously distributed and explained in detail. During this stage, delegates were also elected to attend the second stage, a "National Indigenous Forum". The Forum took place in August 1997, and the delegates elected from the communities spent one week working in the Legislative Assembly. The delegates worked alongside Members of Parliament, according to the rules of the Legislative Assembly. Work was carried out in committees and plenary sessions. Motions regarding removal or amendment of the different articles, or inclusion of new ones into the proposal, were submitted for debate. This genuine plebiscite was not only a masterly application of the principle of consultation enshrined in Agreement 169, it was also considered by many to be a completely new form of citizen participation in the legislative functions of the Costa Rican state.

The result of this process was a new draft bill of law which established an original and feasible system of territorial autonomy. Its aim was not only to encourage effective control by the indigenous communities but also to recover misappropriated lands, to recognize indigenous medicine, to recognize multi-cultural bilingual education, to recognize internal jurisdiction for conflict resolution based on Indigenous Law, as well as a number of other guarantees. The law also envisaged the permanent closure of the National Commission for Indigenous Affairs, a semi-autonomous state body which had been serious questioned regarding its paternalistic practices and its manipulation by the Indigenous Development Associations (local governments in indigenous territories).

The resulting text of the National Indigenous Forum was presented to the Parliamentary Social Affairs Committee and, after a number of amendments - largely of style - it was passed favourably and sent to the plenary Assembly. At the first reading (of three required to promulgate a law) on 23rd April 1998, a majority of the Assembly voted in favour of the draft bill. At the second reading on 29th of the same month, a group of M.P.s requested that the bill be sent before the Constitutional Court of the Supreme Court of Justice for a consultative ruling on its constitutionality. Some people doubt the good faith in this

act, since the draft had already been sufficiently examined and discussed by the Members of Parliament following the consultative process.

Unfortunately, on 1st May a new government came to power and a new parliamentary session was commenced, with new M.P.s. We have to hope that not only will the Constitutional Court's decision be a favourable one but that also the new Members of Parliament will agree to take up the bill of law at the stage where it was left rather than referring it back to committee for study, as this would virtually rule out the possibility of it being discussed again.

In spite of the uncertainty, it is important to state that Asociación Tekra has emerged from this process considerably strengthened and consolidated, as they have played an important role in the organization of the legislative consultation and in the mobilization around, and the discussion of, the draft bill. It is also important to note that the bill undoubtedly constitutes the first document ever to truly give written expression, clearly and in consensus with the base, to an indigenous political project and a structured demand for basic rights and genuine development of indigenous culture. It reflects the level of maturity which the indigenous movement in this country has achieved.

PANAMA

Ten percent of the population of Panama is indigenous and this country continues to be one of the Latin American countries where the government takes every opportunity to reiterate its supposedly broad indigenous policy and peaceful coexistence. But in reality it is a taboo subject to mention Agreement 169 of the ILO or the issue of the General Law of the Environment. The latter contained, in its draft form, a whole chapter on indigenous peoples which was later removed, leaving scarcely two articles on indigenous communities. The President of the Republic himself vetoed the draft version, arguing that it would discourage the private business and foreign investment which might be drawn to Panama. In any case, the draft law has just been sent back to the Legislative Assembly and it is not yet known whether indig-

enous demands will be taken into consideration or not. Nevertheless, lobbying by indigenous representatives in Parliament continues.

Following the creation of the *Ngobe-Buglé* region by means of Law 10 on 7th March 1997, the division between the indigenous people themselves has intensified. A large part of the community has shown its displeasure, maintaining the position that the law was imposed by national government and that instead of favouring the ngobes, it supports the mining companies desirous of investing in the area. On the other hand, another part of the community has maintained its support of the new law, since it considers it better to gain the territory now, despite the limitations, than to wait years for a different result.

In Cerro Colorado, in Ngobe-Buglé territory, copper extraction has diminished due to the sharp fall in the price of this metal. It is believed that the price may not recover until the year 2000. Meanwhile, Pancobre, the company working in the area, has the necessary time to convince some of the leaders to support mining activity, benefiting from the internal divisions. Likewise, it is considered that indigenous pressure will increase in order to neutralize the advance of mineral exploitation in the region.

In November 1997, a forgotten people once more made their voice heard at national level. It was the Bokotas who, in an historic meeting held on 30th November in Santa Catalina, Bocas del Toro province, demanded respect for their rights and the creation of their own territory before the end of this century.

The *Emberas-Wounan* people of Darién province are demanding the incorporation into their territory of a number of their communities which remained outside its boundaries when it was created by law in 1983. The Emberas-Wounan maintain that these communities are particularly threatened by pressure from non-indigenous peasants who are advancing dangerously onto their territory in order to burn it and transform it into cattle-raising ground.

The *Kuna*, for their part, have continued a hard struggle against the plans to install a North American naval base on indigenous territory, under the pretext of combating Colombian drug trafficking. The governments of Panama and the United States finally had to give up their endeavour, but not before describing those defending indigenous au-

tonomy as 'drug traffickers' collaborators" and taking subtle reprisals such as the suspension of some projects in support of the Kuna people (for more information see Indigenous Affairs 2/97).

The Kuna in Panama are still in the process of delineating their territory. (Photo: Alejandro Parellada)

The highest Kuna authority, the General Congress, unilaterally suspended the agreement signed with the Smithsonian Tropical Research Institute (STRI) when the latter refused to negotiate the demand for an increase in payments for use of their facilities in indigenous territory with the Kuna. The STRI had worked with the Kuna for more than 20 years on a marine laboratory which has been visited by biologists from all over the world. Neither the government nor the STRI imagined this reaction from the Kuna and reprisals are expected from the government.

On the other hand, during the first months of 1998, new invasions by non-indigenous settlers into Kuna Yala have been confirmed, which have put all the Kuna organizations on the alert. They have joined

forces to work in the areas of conflict, evicting the invaders and demarcating the region.

In Kuna Yala, the Second Indigenous Conference on the Permanent Forum of the United Nations was held with indigenous representatives from a number of Latin American countries. The aim of this event was to further discussions on the scope of the Permanent Forum and its mechanisms for indigenous participation.

Finally, 1998 is an electoral year in Panama and the traditional political parties are beginning to arrive in the indigenous communities with the same old promises.

Countries covered in this issue: Suriname, Venezuela, Colombia, Ecuador, Peru, Bolivia, Brazil, Paraguay, Chile, Argentina, Uruguay

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SOUTH AMERICA

SURINAME

The indigenous peoples in Suriname, of which the main peoples are the *Kari'na, Lokono, Trio, Wayana* and *Akurio*, totalling approximately 22,000 people or 5% of the total population (of around 410,000) of Suriname, are currently intensifying their struggle, for land rights in particular.

After the legislative and presidential elections eighteen months ago, Suriname has been subjected to continuous political tension between the NDP (the revolutionary party of former military strongman Desi Bouterse) and the 'old' political parties which preceded the military regime. The NDP-led coalition governs with a minority backing in parliament, and all the government's energy is put into maintaining the fragile coalition at a time of worker strikes, a deteriorating economy, rumours of drug trafficking by top rank officials and threats against the press. Ties with the Netherlands, the biggest development aid donor, are being broken and President Wijdenbosch is searching for alternative income through South-South relations with Arab countries and countries such as Brazil, Cuba, China, Indonesia and Malaysia, through membership of the Organization of Islamic States and its Islamic Development Bank and, the most detrimental aspect for the indigenous peoples and Maroon peoples, also through the granting of vast concessions for logging and mining in the interior, the homeland of the indigenous and Maroon peoples.

In this environment it has been very difficult for us to gain much-needed attention for indigenous people's rights in Suriname, an issue which is still high on the agenda of the main indigenous organizations in the country: the Organization of Indigenous Peoples in Suriname (OIS) and the Vereniging an Inheemse Dorpshoofden in Suriname (the Association of Indigenous Village Chiefs in Suriname VIDS). The existence of indigenous peoples as such is still not recognized by the government of Suriname; the only reference made is to 'Amerindians'. Territorial rights are not legally recognized nd participation in

decision-making processes has not improved. One significant debilitating factor for the indigenous organizations is the government's refusing to give attention to the indigenous peoples, who are the smallest minority in the country. On the other hand, the indigenous organizations have only limited managerial and staffing capacity.

Moreover, a 'divide and rule' policy is used to divide the indigenous peoples and the Maroons, who are semi-indigenous black communities who have been living tribally in the interior of Suriname since the time of slavery in the 17th and 18th century and who live according to age-old African traditions. Efforts are maintained, however, especially on the part of the OIS, to keep the Maroons involved in the same basic struggle for recognition of territories, control over natural resources and autonomous development.

The indigenous movement has fortunately not been at all silent. In April 1997, a show with an indigenous pop-star well-known in the Netherlands, was performed in Paramaribo. One of the objectives, which was to raise funds, was not met. However the other goal, which was to draw positive attention to the indigenous identity, was certainly achieved. In May 1997, the OIS participated in the Fifth Congress of the COICA (Coordinating Body of Indigenous Organizations in the Amazon Basin) of which it has been a member since 1984. Acting on a proposal which the OIS had been making since 1995, the Congress decided to establish a Coordinating Area specifically for Education, Science and Culture within its structure. Nardo Aluman, until then President of the OIS, was elected unanimously as coordinator of this new area of the COICA. He subsequently stepped down as President of the OIS, and this post is now held by Ramses Kajoeramari, a Kari'na from Galibi, in East Suriname. Ramses Kajoeramari participated in a COICA workshop on biodiversity and indigenous people's rights in Puerto Ayacucho in Venezuela in October 1997, and Denis Kiba, a member of Stidunal, a base community organization, participated in a UN workshop for indigenous journalists in Madrid in January 1998. Efforts are currently underway to start a news bulletin for the communities.

With the financial support of IWGIA, the OIS was able to establish an office at Johannes Kingstraat 7, Rainville, Paramaribo, which now

functions as an indigenous centre, independent of membership of the OIS or VIDS. The centre is equipped with a computer, which was also bought with funding provided by IWGIA for the COICA, in order to establish e-mail/Internet connections for all COICA members. The connection has been made and the e-mail address of the OIS is: oisur@sr.net The office also has a photocopy machine, a printer and a fax machine.

Along with the VIDS, the organization became a member of the Steering Committee for the UNEP Small Grants Programme for environmental projects to be implemented at a local community level, administered in Suriname by the national UNDP office. The OIS and VIDS, along with another indigenous organization, FINOS (Federation of Indigenous Organizations in Suriname), had a meeting with President Wijdenbosch in October 1997, to discuss the establishment of a Council for the Development of the Interior (ROB) which was one of the points included in the 1992 Peace Agreements which put an end to the guerrilla war in which the Tucayana Amazones, an indigenous guerrilla group, fought for territorial recognition. This agreement has never been upheld by subsequent governments. Very recently, in May 1998, the Council was finally re-established by the government, now including indigenous representatives (the previous Council had only Maroon and governmental representatives in it and the way it functioned was very vague). One of the major tasks of the Council is to define developmental objectives for the interior as well as to give advice on funds available for the interior, including Dutch developmental aid. We consider such membership to be an important form of recognition that is necessary for the participation of indigenous representatives in policy and implementation decisions.

Legal recognition of territorial rights, however, remains a crucial issue. In December 1997, a legal case was filed against indigenous communities in the east of Suriname. A previous "land owner" whose plot within indigenous land was re-conquered by the communities during the guerrilla war but who holds the necessary legal papers for land ownership, took the indigenous village chiefs to court accusing them of illegal occupation of 'his' land. An action committee for the defence of indigenous land rights was established by the VIDS and

OIS, and the majority of indigenous organizations in Paramaribo participate in it. The OIS centre was nominated as action centre. The chiefs were brought to the city to appear in court and to speak to the lawyer who was appointed to this case. There has been much public attention around this issue. The case is still in court, but under the law there is the possibility that the villages will be forced to abandon the land in question, on the basis of existing, deficient laws on land ownership which do not recognize any indigenous people's claims. The indigenous communities are currently very concerned that such a ruling may create a negative precedent for future law suits.

Although it cannot be said that the indigenous movement in Suriname is optimistic about the future, there is confidence that these renewed efforts will bring benefits through the attention that is currently being paid to indigenous people's rights in Suriname.

VENEZUELA

Venezuela has one of the richest biodiversities in the world. Because the indigenous people have developed farming methods that work in harmony with their ecosystem, they are protecting and maintaining this biodiversity.

In spite of this, the Venezuelan state has never made use of these people's cultural experiences in order to truly protect the biodiversity within its borders. Instead, this diversity of resources has been put to use in the interest of the state, through the creation of a large number of different "Areas under Special Administration" ("Areas bajo Régimen de Administración Especial" - ABRAE's) over wide areas of the country.

By the beginning of the 1990s, a total of 39 National Parks, 17 Natural Monuments, 47 Protected Zones, 10 Forestry Reserves and 2 Biosphere Reserves had been established. The largest ABRAE's are found in the interior of the country, where also the indigenous ancestral territories are found. In spite of Convention 107 of the ILO, which is enforceable under Venezuelan National Law, the Venezuelan authorities consider the land and natural resources within the ABRAE's

as national property and thus the indigenous inhabitants of these areas have no right to aspire to land titles.

One of the largest ABRAE's is the Imataca Forestry Reserve, which was declared as such in 1961. It covers some 3,202,250 hectares and includes part of the ancestral lands of four indigenous peoples from the east of Venezuela: the *Pemón, Warao, Arawak* and *Kariña* peoples. On 14th May 1997, by means of Presidential Decree No. 1850, a Plan for the Organisation and Regulation of the Use of the Imataca Forestry Reserve was approved. This plan enables a large area of the Reserve to be used for mining and industrial purposes, and rural residences.

Even the Venezuelan Attorney-General was critical of the terms of this Regulation which was decreed by the government, arguing that mining activity was incompatible with the original aims behind the creation of the Imataca Forestry Reserve. The government justified the decree by arguing that it was necessary to regulate the prevailing situation of illegal mining activity in the region.

During 1997, Decree No. 1850 had a huge impact on Venezuelan society when public debate unexpectedly widened to include the area of economic and environmental policy. An open policy towards mining is considered one of the priorities of the current Venezuelan government and Imataca is the most dramatic symbol of this policy. Eighty companies have already received mining rights within the Reserve. In their search for gold, the mining companies are contaminating the soil and the water with mercury. The indigenous communities are witnessing the destruction of their means of existence. Faced with this situation, instead of encouraging the sustainable use of the Imataca Forestry Reserve's natural resources, the Venezuelan state has, on the contrary, managed to legalise the destruction of the ecosystem and of indigenous culture.

During 1997, several demands for nullification of Decree 1850, on the basis of inconstitutionality and illegality, were heard by the Venezuelan Supreme Court of Justice. One of the demands was put on behalf of 50 indigenous communities who were affected by the granting of mining rights. A final decision is still awaited from the Court regarding this. It is not only the future of the Imataca region which

will depend on this decision, for it will be taken as a precedent with regard to the future of other Venezuelan ABRAE's which are rich in minerals and which are also the traditional habitat of indigenous ethnic groups. Will the Supreme Court give a green light to the strong mining interests or will it put a stop to the path of destruction in which the indigenous people who live within the ABRAE's find themselves, by nullifying Decree 1850?

For all these reasons, the Imataca case was the most important and significant indigenous issue for the country in 1997.

An important issue in the most southerly Venezuelan state, Amazonas, is the political/territorial division of the state. As already stated in the *Indigenous World* 1996/97 report on Venezuela, the Venezuelan Supreme Court had nullified a Law of Political Division of the state. The aim of this law was to establish municipal authorities within the state. The Supreme Court's decision above all criticised the violation of the right of indigenous peoples to participate in the formulation of the contested law, and ordered the Parliamentary Assembly to draw up a new law which would guarantee the rights of these communities to participate politically.

During the first part of 1997, indigenous organisations within the state drew up a draft law which would guarantee the establishment of a state of exception for the indigenous people, as anticipated by Art. 77 of the national constitution. Amongst other things this was based on: respect for indigenous ancestral lands, decentralization of funding and the establishment of a special municipal government in the region inhabited by the Venezuelan yanomami people. Nevertheless, the Amazonas State Assembly decreed a new law in December 1997 which took no account of the indigenous proposals, thus defying the Supreme Court's ruling. The legal, political and public conflict regarding this issue is still continuing in Amazonas.

Over the whole country the process of dispossessing indigenous groups of their land continues. The indigenous people find themselves up against alliances of economic and political interests at both a national and a regional level. In the northern part of Amazonas state during

1997, members of the "DINACU producers' association" invaded traditional lands belonging to communities of the *Piaroa, Jivi* and *Ye'kuana* ethnic groups. The members of this association were taking advantage of an improper authorization on the part of the Ministry of the Environment and the National Agrarian Institute to occupy around 49 hectares of land in the Protected Area of the River Cataniapo Hydrographic Basin. This invasion led to the destruction of indigenous crops sown and the deforestation of parts of their ancestral habitat.

In the state of Zulia, some communities of the *Barí* people found themselves involved in a dangerous confrontation with petrol companies. According to Venezuelan press reports, some petrol companies have begun to set up paramilitary groups, a phenomenon which is linked to events in neighbouring areas of Colombia. Through this means the companies - above all the multinational MAICCA - are trying to break the strong resistance which large sections of bari society are showing to the petrol companies' activities on their lands.

Press campaigns to discredit this indigenous people increased, and still continue, with the full knowledge of the Venezuelan state. They are accused of having connections with Colombian guerrillas and drugs traffickers, yet they have been given no opportunity of defending themselves.

Another example of dispossession of indigenous lands is that of the "Jesus, Mary and Joseph" community of the *Kariña* people, whose members were evicted by order of the Mayor of Aguasay (Monagas state). According to information from the Venezuelan human rights organisation, "PROVEA", members of the "Jesus, Mary and Joseph" community have pointed out that the Venezuelan company, Corpoven, which is carrying out exploration and exploitation work in the area, has connections with the municipal authorities in Aguasay. The indigenous community is still awaiting the Venezuelan Supreme Court's decision on the illegality of the municipal order.

COLOMBIA

Widespread violence continues in Colombia, affecting many of the country's indigenous peoples. Such is the case of the *Koreguaje* people. At the end of June 1997, thirteen of their people were killed, whilst another sixty received death threats. These murders bring the number of violent deaths in recent years to twenty one.

The Koreguaje people live in the Caquetá region of Colombia, an area where there are continuing clashes between the National Army and rebel groups, along with a great deal of activity on the part of drugs barons. The 1,400 people of the Koreguaje have made repeated appeals to the national authorities and to international public opinion for peace to be restored in the region and for the rights of their people to be upheld.

On the other hand, the *U'wa* people continue to fight in defence of their territory. The main threat to them is the presence of the 'Oxy' oil company. They have announced their intention to commit collective suicide if their right over the land is not respected.

The oil company has been negotiating the exploration and drilling of oil in the U'wa region with the national authorities since 1992.

The company states that between 1993 and 1994 it held some thirty meetings with the U'wa to inform and consult them but the people themselves assert that the company met only with either isolated members of the community or with people living outside the community and that the project has never been explained to them.

In 1997, a delegation of indigenous U'wa travelled to Washington with the aim of requesting the Inter-American Court of Human Rights to compel the Colombian government to revoke the environmental license enabling the oil company to explore and drill in the U'wa lands.

With the aim of resolving the conflict, the Colombian government turned to the Organization of American States (OAS) for an opinion on the case. After visiting the indigenous territories, the OAS drew up a document whose conclusions asked Oxy to immediately suspend explorations, to obtain a reconciliation of views between both sides and to obtain the consent of the U'wa in the case of any eventuality.

Meanwhile, it is hoped that the International Court will decide whether it is correct or not for the oil company to have obtained such authorization and that Oxy will be reasonable and respect the integrity of this indigenous people. In recognition of their struggle, the U'wa have received two prestigious international awards, the Goldman Award in the United States and the Bartolomé de las Casas Award from the Spanish government. They maintain their decision to commit collective suicide if Oxy commences operations on their lands.

ECUADOR

This is possibly an historic year for the Ecuadorean indigenous movement, both in terms of its legal victories in the area of recognition of their existence as nationalities and peoples, and of their being considered the legal subjects of collective rights.

These victories have been made possible through the development of creative and innovative strategies by the indigenous movement from 1996 onwards, including participation in elections, the creation of their own political instrument (Pachakutik), using means of pressure such as demonstrations and uprisings, and calling for dialogue and national agreement in order to study proposals for constitutional reform. Within this context, the following events are worthy of mention:

Participation on the part of the indigenous movement in the rebellion of 5th February 1997, which ended with the overthrow of the government of Abdalá Bucaram, and enabled the incorporation of a number of their proposals into agreements established with the interim government, of which the most important were:

- Elimination of the Ethnic Ministry and its replacement with a National Council for Planning and the Development of Indigenous and Black Peoples (CONPLADEIN), made up of representatives from national indigenous and black organizations and a delegate of the President of the Republic as chairperson. The approach of the organizations in creating this Council responded to the need to overcome the clientilist and manipulative manner with which the

vast majority of government actions towards indigenous peoples had been characterized in the past and to move the formulation of a State policy based on indigenous proposals forward. This would constitute an institutional framework which would ensure representation on the part of the organizations.

- The organization of a Constituent National Assembly in order to draw up a new political constitution, which would be the legal basis for a reform of the State. This was to be with the participation of representatives from the different political and social sectors. From the indigenous organizations' point of view, this arena was vital if they were to achieve reforms which took account of the multinational and multicultural character of the State and recognition of their rights as peoples and nationalities.

In spite of the fact that the organization of the Constituent Assembly was part of the February political agreements and was ratified in a referendum organized by the interim government, this government itself, along with the majority political groupings in the National Congress, tried to hinder the organization of the Assembly. Along with other indigenous organizations, CONAIE led a week long uprising to force the organization of the Constituent Assembly and, in the face of a refusal on the part of the government, called a Popular Assembly made up of the different political and social sectors. Confronted with national approval of the indigenous approach, the government and Congress were obliged to organize a National Assembly, removing from it its constituent character.

CONAIE continued with the organization of the Popular Assembly, which took place from 13th to 18th October. There was great participation from all over the country and from different social sectors (indigenous, workers, women, environmentalists, artists, students, etc.) who worked together on a proposal for constitutional reform to be put to the National Assembly for its consideration.

The Popular Assembly worked on the basis of local assemblies, in which proposals for reform were made and candidates for election to the National Assembly were chosen. Fifteen days before the Popular Assembly, marches commenced from all over the country, organized

by indigenous women. Their numbers grew as they drew closer to Quito, where they met and inaugurated the Assembly on 13th. The marchers received great support in each town they passed through on the way.

On 30th November, elections were held to appoint the members of the National Assembly. The indigenous movement participated as "Pachakutik", an alliance with other social movements, and obtained 8 (indigenous) members in a 70 member Assembly, managing to form a block of 15 members with the other political forces participating in the alliance. Nina Pacari, (Quechua, north Andean region), ex-leader of CONAIE and ex-Executive Secretary of CONPLADEIN, was nominated President of the Committee for State Reform of the Constituent National Assembly.

Amongst the proposals for constitutional reform presented by the indigenous movement, the following are worthy of mention:

- Recognition of the multinational and multicultural nature of the State, whilst noting that its adoption means the building of a decentralized politico-administrative structure, culturally heterogeneous and open to participatory representation on the part of all social sectors.
- Organization of the State: to incorporate the category of indigenous peoples' and nationalities' territories, indigenous communities and black regions within the territorial organization of the State, within which forms of territorial autonomy are recognized and aspects relating to the authority and jurisdiction of the State territorial bodies are clarified, through two mechanisms: the Organic Law of Territorial Organization of the State and the Organic Law of Indigenous Peoples and Nationalities.
- Representation within State bodies: that a third of the members of the National Congress or Parliament should be representatives of indigenous nationalities, elected through their own electoral system established in an Organic Law of Indigenous Peoples and Nationalities. This would be similar to the representation the executive power has through collegial bodies.

- To overcome the way of looking exclusively at citizens' rights and to recognize indigenous and black peoples as legal subjects, with collective rights.

With the aim of getting these proposals for constitutional reform accepted in the National Assembly, the indigenous movement chose a strategy of dialoguing with all possible sectors (political parties, Church, army, the media, universities, business, etc.). Within this context, CONAIE and the Ecuadorean Episcopal Conference, with support from the IADB, Indigenous Fund and UNDP, organized a coordination meeting, in which representatives of the aforementioned sectors took part. Victor Hugo Cárdenas, ex Vice-President of Bolivia and President of the Indigenous Fund facilitated the event. CONAIE also organized meetings in order to dialogue with the leaders of each of the political parties.

The actions of the indigenous movement have been highlighted by the national press over the last few months, as an example of a distinct form of political negotiation strategy which favours dialogue and consensus in order to gain the necessary reforms of the State.

It is also striking that, with this strategy, the organizations have managed to overcome a somewhat generalized tendency in Ecuadorean politics, which consisted of transforming proposals into simple objects of negotiation in exchange for support on other issues. The indigenous movement set out the need to define its position on the basis of an analysis of each one of the issues on the constitutional reform agenda.

Although not all of the approaches of the indigenous movement were accepted in the coordination meeting and other fora, a fundamental space had been opened up within which to reach agreement on the basic issues relating to the collective rights of indigenous peoples. This served as a basis for incorporation of these points into the National Assembly's constitutional reforms.

The most important aspects of indigenous and black people's rights, which were approved by the Assembly on 24th April are: the right to retain ownership of community lands, which will be inalienable, unseizable and indivisible (the term territories was not accepted); to participate in the use, management and conservation of the renewable

natural resources of their lands; to be consulted with regard to plans and programmes for prospecting and exploitation of non-renewable resources situated on their lands; to be awarded a share of the profits arising from those projects; to receive compensation for the socio-environmental impacts they may cause; to grant the indigenous people's authorities the right to exercise duties and enforce their own norms and procedures for conflict resolution according to their customs and habitual law, as long as they are not in contradiction with the constitution and its laws; to hold the right to the collective intellectual property of their ancestral knowledge; to formulate priorities with regard to their development, to plans and projects for the improvement of their social and economic situation and to receive an adequate budget from the State for this purpose.

One extremely conflictive issue was that of the nature of health care. The proposal to privatize it, from one of the Assembly's committees, caused an immediate reaction from indigenous people and peasants, who paralysed the country for a whole week because they considered that this proposal would weaken peasant health care systems. Finally, the Assembly decided to keep the current principles of health care, creating a social security system within which private insurance also has a place.

One approach, considered central by the indigenous organizations but which was not accepted by the National Assembly was that of the definition of the nature of the State as multinational. This was because it was considered that the conditions were not yet appropriate within the country to take on board a change of such a nature. The Pachakutik members of the Assembly and the indigenous organizations accepted this decision out of respect for the democratic mechanism, indicating that they would continue working to achieve this objective. They also emphasized that the argument of those who opposed the multinational nature of the State was not that they denied the validity of the approach but simply that they questioned its appropriateness at the current time.

A great deal of concern currently exists in the country with regard to the future of the constitutional reforms, due to the decision of Congress and the government to disregard the reforms achieved by the

Assembly since 30th April. The indigenous movement has taken on the role of defender and custodian of the Assembly, which will work for one week more and it is hoped that the new constitution will come into effect with the new government, in August 1998.

Another issue which should be highlighted is the actions which have been developed within the National Congress, under the leadership of Miguel Lluco, Quechua member of the House from Chimborazo (South Andean region) who, through a significant campaign of conferences, debates and lobbying managed to get Congress to ratify Agreement 169 of the ILO on 14th April. As from that date, the agreement has the status of a constitutional regulation. This ratification will significantly support decisions on collective rights in the National Assembly.

Miguel Lluco has furthermore given an outstanding performance on the national political scene, developing a permanent action of denouncing corruption cases, together with the other Pachakutik members.

On 30th May, elections will take place for the Presidency, for National Congress and for a partial change of local dignitaries. The indigenous movement has decided to participate under the political banner of Pachakutik, in alliance with other political sectors. They hope to gain a significant presence in the National Congress, which will enable them to work on legal proposals to make the constitutional victories gained in the Assembly concrete, as well as broaden and deepen their presence at local government level.

Indigenous Participation in Local Authorities

Indigenous participation in local government and authorities has been another important aspect of this year. In 1996, the indigenous movement achieved the election of 10 mayors, various councillors in 33 municipalities and provincial councillors in 11 provinces. This issue of participation in and management of local government has become a new topic of reflection within the organizations. It is not always related to indigenous proposals for decentralization, autonomy and their own forms of management; there are cases where elected indigenous

authorities behave just like any other group of politicians. It also has to be noted that there are many limitations with regard to management capacity. Nevertheless, there are a number of experiences which can be used as reference points in the formulation of a clear policy on this issue. Thus, some indigenous authorities in the Andean region have strived to create the necessary space for consensus with the different social players at a local level. In areas of ethnic diversity, with a high mestizo presence, as is the case in Cotacachi (near to Otavalo), a local assembly was created and a participative process for drawing up a local development plan was initiated.

In areas which are largely indigenous, such as Guamote (90% of the population is Quechua, the mayor and 6 of the 7 local councillors are indigenous) in the South Andean region, they are facing up to the need to look, at a district level, at a plural approach, encompassing the right to representation and wide participation. There are three bodies organizing to this effect in Guamote: firstly, a district indigenous parliament, made up of the presidents of the councils of 118 communities. Regardless of the federation to which they belong, indigenous authorities of the municipality (Mayor and councillors) also form part of this. Its role is to define indigenous policy, establish criteria and priorities for development of the district and consider the actions of the authorities, who are understood to be their representatives but cannot act outside of parliamentary resolutions. Secondly, a Local Development Committee has been created, composed of representatives from all of the secondary local organizations, both indigenous and mestizo, and of governmental and non-governmental institutions working in the area. This is where local development is planned, through consensus and interinstitutional coordination. Thirdly, there is the Municipality, with its specific functions, but which is considered more as a body which executes plans and policies defined by the other two bodies.

Issues related to the Environment, Biodiversity and Defence of Collective Intellectual Property Rights

With the concessions granted by the government through the 8th round of bids for oil exploration and exploitation, these now cover virtually all of the Ecuadorean Amazonian region, consequently affecting the indigenous territories, including those in the south *(Shuar and Achuar)* where previously there was no oil exploitation. In this area, concessions for gold mining have also been granted to a number of large companies. In this context, the environmental impacts are becoming worrying, and also the organizational impacts caused by the way in which the negotiations are carried out with the companies. Some efforts at reflection have been initiated in order to draw up proposals aimed at facing up to three limitations, the first two with reference to the State and the third with reference to the organizations: the absence of clear legal guidelines for companies on organizational, socio-cultural and economic impacts related specifically to indigenous peoples; the lack of a body to deal with conflicts between companies and organizations; the lack of clear guidelines within organizations with regard to decision-taking in the face of the presence of these companies. The ratification of Agreement 169 of the ILO will certainly enable these proposals to be made concrete.

Issues related to bio-piracy and defence of the collective intellectual property of indigenous peoples were discussed in relation to the debate on the promulgation of the law on intellectual property in Congress. The approach of this law, which was to consider property rights from the exclusive perspective of private property, left a number of the complaints of indigenous Amazonian organizations regarding foreign patents achieved on the basis of their knowledge with no legal backing, such as is the case with the ayahuasca. This legal vacuum has been overcome with the incorporation into the new Constitution of the right of collective intellectual property with regard to the ancestral knowledge of indigenous peoples.

Representation as Peoples and Nationalities and the Limits of Current Organizational Forms

Does the current form of organization enable representation in terms of peoples and nationalities? This is the question which has been gaining strength within CONAIE throughout this year. Current organizational forms, although very useful over the past decades, are the result of union and even missionary perceptions which, on the one hand are superimposed on, and/or destroy traditional forms of organization and, on the other hand, are not representative of the socio-economic diversity which is now characteristic of the indigenous peoples. Furthermore, in many cases they are structured according to criteria which reproduce the current territorial organization of the State and not according to ethnic territoriality. These limitations have also been noted in other areas of the organizations, something which on a number of occasions has led to a loss of credibility in the leadership structures.

These reflections have led, in the last Ecuarunari Congress, to their transformation into the Confederation of Peoples of Quechua Nationality. Although this process is a step forward, it is clear that many changes are needed for its structure to truly correspond to such representation, and to avoid falling into the trap of merely changing its name.

An extremely important criterion of this process is the need to give back a fundamental role of representation to local groups - communal councils in the case of the quechua - on the basis of which representation would be organized from the bottom up (indications of this process are being noted in Guamote with the local indigenous parliament). Another important criterion is the need to develop the idea of ethnic citizenship, that is, the idea of individual rights within each people, forms of citizen participation within the group which, although they may be traditional forms, are confronted by current conditions and challenges.

Clearly this is an issue of great importance, both for the future development of each people and in order to adapt their structures to their own demands for autonomy and the forms of representation within the State. Perhaps over the next few years, with the support of the

legal and political victories of today, the internal stage will gain increasing relevance and the organizations may deepen their reflections related to the direction of their own development.

PERU

For the first time ever, the conclusions and recommendations presented by the Committee of the Economic and Social Council to the Peruvian government highlighted indigenous issues as presented by AIDESEP in its alternative report on civil society at the time of the agreements on the Pact on Economic, Social and Cultural Rights. Other multinational organizations, including the World Bank, have also recommended the need for consultation and for a consideration of the impact of development programmes on the indigenous peoples they affect. Nevertheless, only lukewarm signals have been received from the State.

With regard to new legislation, the period commenced with the promulgation of a package of laws relating to natural resources. These bore witness to a continuing intention to become involved in the Amazon within the context of the neo-liberal economic plan, through the Organic Law for the Exploitation of Natural Resources, whose social aspects constitute a clear attack on the rights of indigenous peoples.

In fact, the safety agreements endorsed by the State before the law came into effect have been excluded from its scope. Furthermore, it will not modify the guarantees contained within the legal agreements with respect to the oil contracts. The potential contamination which this activity causes (exacerbated by acts such as allowing heavy waters to be dumped in rivers and broken up there in order to save the company money, instead of being reinjected into the subsoil) has not been considered and this exclusion highlights the disinterest on the part of the State with regard to environmental issues.

This law has further blackened the already dark outlook for peasant and indigenous communities which had been outlined by previous laws (including the current Constitution). Articles 17% and 18% put in place measures of apparent benefit, but in reality they reduce recognized rights. This includes the Forestry Law (D.L. 21147), which guaranteed exclusive exploitation of existing flora and fauna on titled ter-

ritories. Now indigenous peoples may only make use of that which is found within the immediate environment of their own lands, and then not exclusively, and only to meet their subsistence needs or for ritual use, and only if there are no exclusive rights on the part of third parties or the State. In respect of the resources of their own titled lands, they will only have preferential use if there are no previously mentioned exclusive rights.

Exploitation of natural resources in the Amazon: Oil exploration in Achuar territory, Peru (Photo: IWGIA Archive)

Another law in this package is the Law of Natural Protected Areas, which once again ignores the role indigenous people play in conservation *in situ*, thus diminishing the possibility for autonomous control even in the Areas of Communal Reserves. These were part of an original proposal which aimed to make conservation of the areas, and rec-

ognition of the capacity of indigenous peoples to manage them, compatible with each other.

As far as the indigenous organizations are concerned, in spite of official resistance, they have been able to bring about a series of land actions of great interest. Such is the case of the Murunahua Territorial Reserves - 481,560 hectares - and Mashco - 768,848 hectares - and the territories held by CORPI in a number of the basins of the high Amazon - at the moment more than a million hectares. Similarly, they have managed to renew the Agreement for indigenous land titling in Ucayali. In other regions, there have not been the same opportunities. In some cases, such as Madre de Dios and Alto Marañón, this has been for bureaucratic reasons. In others, such as the case of the central forest, the difficulties are far greater and forestry concessions (handed out in secret whilst the communities had left the area in order to protect themselves against terrorist groups) are hindering the titling process.

Indeed, in 1988, in the middle of the violence, with the communities abandoned and devastated and the region considered dangerous even by the army itself which could not, at that time, set up base in the area, APRA government politicians - in whose decisions the origin of many of the calamities of this time can be found - negotiated agreements with three large logging companies: NEMATSA, HURTADO and INDUSTRIAL SATIPO, to divide these war zones up commercially between them.

Thus with no possibility of the necessary procedures, tests and inspections that this type of contract requires being carried out, these companies became the beneficiaries of forestry concessions covering, on average, 15,000 hectares in lands where the *Asháninka* and the *Nomatsiguenga* had their sources of traditional subsistence. Through lack of adequate inspection regarding the measures, some of these contracts were handed out on lands titled to a number of different communities.

After such long suffering, the communities began to organize a return to their lands and to build the necessary conditions for normal survival. To this end, they signed agreements with the sectoral authorities in charge of agriculture and, with funding obtained from international agencies, they began the necessary processes and proceed-

ings to recover and normalize their rights to the lands they had occupied before the conflict.

Asháninka of Gran Pajonal, Peru (Photo: Alejandro Parellada)

Nevertheless, the agricultural authorities have paralysed the inquiries, ignoring indigenous rights and humanitarian justice, as well as common law itself, citing reasons of social pressure on the part of the logging companies. It is a question of protecting three logging companies which, whilst the owners of the land were fighting for peace, managed to obtain concessions which are now preventing the return of more than 300 indigenous families. It also has to be remembered that, inexplicably, these companies began to exploit the area at a time when the worst massacres were being perpetrated against the indig-

enous rebels in the region and at a time when the armed forces were still unable to enter the zone.

We also have to bear in mind that at this time, the Native Communities of the Valle de Pangoa were undergoing a process of reconstruction of their social fabric, and thus to deny them ownership of the land to which they had always had access in order to satisfy their basic needs (food, fruit and medicinal plant gathering and so on.) constituted a threat to the very existence of a whole people.

Once more, the period has been marked by the requirements of the oil companies. In all regions, this problem has focussed attention on the indigenous organizations and the government. There have been many innovations, but perhaps the most important has been the formulation of a proposal submitted to the government and companies by AIDESEP. The receptive attitude of the sectoral authorities, as well as of the Prime Minister himself, seems to herald a new era in which opportunities for the organizations may significantly increase.

However, whether for geopolitical or other reasons, the government has embarked on a new frontiers policy precisely where the indigenous people are developing the strongest positions against the oil companies. Great colonization projects have already commenced, in Yavari and in the zones of Ucayali, within the ARCO and ANADARCO petrol companies' plots. Others, under the supervision of the Multi Sectoral Commission for Frontier Development, are being developed in the Pastaza frontier, where relationships with the petrol companies are very delicate. This is a government which had originally stated that they would abandon the promotion of Amazonian colonization.

However, the position of indigenous organizations such as AIDESEP and CORPI is that they have decided to participate in the Commission in order to be able to have a say in the planning and, in fact, they have managed to reach agreements which rationalize the frontier projects and avoid threatening the indigenous territorial positions.

Another interesting proposal to be presented to the government, besides that concerning oil activity, is a proposal for sustainable development which will be based on a process of consultation to be car-

ried out in mid-1998. A proposal for indigenous law is also planned for this year and work has been ongoing on this for some time.

One further important aspect which must be mentioned is the fact that the country is entering an electoral period, with all the tensions that entails. Indigenous people have already set up the Indigenous Movement of the Peruvian Amazon (MIAP) and are preparing to participate in 22 Amazonian districts from where they may be able to work within the local government with proposals which identify their positions.

As can be seen, although it has been a year of great shocks, the Peruvian indigenous movement has embarked upon a phase of proposal which has had extremely constructive results, even though reception has been limited on the part of the State bodies. Nevertheless, the State has commenced a series of contacts which may prove to be positive.

On an organizational level, the year has been an important one. The setting up of parliaments in some regions, the progressive strengthening of regional confederations and the new attitude of constructive proposal on the part of the movement have all contributed to a continual process of reconstruction. This has been achieved within a restrictive socio-political context in which other popular sectors continue to suffer from the decline caused by the crisis of the last few years.

BOLIVIA

In June 1997, the indigenous movement of the Bolivian lowlands participated in national elections for the first time in history. But the measure of its strength in national politics left the movement greatly disappointed. Although they had entered into a coalition with a political party, they could do nothing to prevent their electoral defeat. Another challenge to the movement continues to be its main demands for land titling, which have continued in the face of the new government headed by ex-dictator, Hugo Banzer. Yet whilst the fight for land rights clearly

seems to be a long drawn-out process, the movement is making small steps forward with concrete achievements.

National Elections

The national elections planned for 1st June 1997 created a great sense of expectation within the indigenous movement: from the end of 1996 until the date of the elections in 1997 the movement, represented by the Confederation of Indigenous Peoples of the East, Chaco and Amazonia (Confederación de Pueblos Indígenas del Oriente, Chaco y Amazonia - CIDOB) gave a high priority to the discussion and search for a consensus on indigenous participation. The good results obtained in the municipal elections of December 1995, in which around 20 indigenous representatives were elected to local councils in the lowlands, were probably the driving force behind the movement's motivation to participate.

Due to the rules of electoral participation, the movement had to participate through an alliance with a political party. CIDOB came to an agreement with the Free Bolivia Movement (Movimiento Bolivia Libre - MBL), with the President of CIDOB, Marcial Fabricano, standing as candidate for the vice-presidency. MBL was the only party to agree to CIDOB's demands, including regarding the post of Vice-President.

But a consensus could not be achieved within the indigenous movement and after having entered into the agreement with MBL, internal discussions continued right up to the date of the elections. One opinion within the movement was that there was a need to present indigenous candidates through a number of different parties, thus standing a greater chance of winning in a local context. Therefore on a local level, other alliances were made (with the Movement of the Revolutionary Left - Movimiento Izquierda Revolucionario (MIR) and the Revolutionary Nationalist Movement - Movimiento Nacionalista Revolucionario (MNR)), which obviously had an impact on the results.

The results of the elections were poor for the indigenous movement: the alliance only gained 3% of the vote and MBL suffered an

overwhelming defeat at national level. Only one indigenous Member of Parliament was elected: Vicente Pessoa of the chiquitano people, through the MNR party. In spite of being a relatively small population, the indigenous movement of the lowlands would have been able to hold significant political and strategic strength at national level, and this collapse was thus a very severe blow for them. Nevertheless, it can be said that although the indigenous movement has clearly suffered an initial defeat, the door has opened a little on the need for recognition and acceptance of the heterogeneity of the indigenous movement and on the need to create alliances with other social sectors in similar situations, both at a local and national level.

The political climate under the previous government was by and large favourable to the indigenous movement and several indigenous aspirations were included in the programme of reforms. Contact between CIDOB and the Under-Secretary for Ethnic Affairs (Subsecretaria de Asuntos Etnicos - SAE) and other governmental institutions was frequent. The government accepted CIDOB as the direct spokesperson of the demands and claims of the indigenous peoples.

The new government, headed by ex-dictator (1971-1978) Hugo Banzer of Nationalist Democratic Action (Acción Democrática Nacionalista - AND), changed the status of the SAE to a Vice-Ministry: the Vice-Ministry for Indigenous Affairs and Native Peoples (VAIPO). Although this could be taken as an indication of greater importance for indigenous affairs, during the first nine months contact with CIDOB has been of an extremely sporadic nature. The government's plan makes virtually no reference to indigenous affairs, merely expressing an intention to promote "development with identity" for the indigenous population.

The Fight for Land

One of the greatest challenges facing the indigenous movement in the face of the current government is the obtention of land titles. This is also currently their greatest concern.

The National Land Law - the INRENA Law - of 1996 conceded the titles of eight territories to indigenous groups, all of whom had

been previously granted the land, but without title. A further 16 land titles were to be conceded by INRA over a period of ten months, but this has been impossible to achieve.

The process of titling is ongoing but the size of the areas which the indigenous people are laying claim to is still not clarified. Before titling takes place, a "cleaning up" of the area must occur, in which land ownership is clarified. In many cases, this ends up in complete chaos. A number of people may hold a title to the same piece of land: livestock farmers, settlers or speculators, the so-called "third parties". To prevent the state from revoking their land, the owners have to prove that the land is fulfilling a socio-economic role, that is, that the land is being used and not held onto for land speculation. If the "third parties" who remain after the clean up cause the size of the future territories to be reduced, the INRA Law obliges the government to compensate the indigenous people with land elsewhere.

Before the final titling process, needs assessments are undertaken for each one of the territories. These studies are to verify that the indigenous people need the land they are claiming.

This process of titling seems to be wrought with problems and prone to political manipulation. Sixteen months after approval of the law, the studies - which are an important condition of the whole process of "cleaning up" - have still not been carried out. With an apparently limited desire to benefit indigenous interests, this process may very easily end up consolidating the position of the large landowners, who often hold false documentation regarding the land. Some fear that the government's main interest is in legally assuring property rights in order to promote investment, whilst the potential redistribution of land according to the law may not take place.

Preservation of Traditional Knowledge

The fight for land and territories is the main priority for Bolivia's indigenous peoples. But hand in hand with the conquest of land goes the fight for legislation and the current debate on intellectual rights as part of this fight. There is growing pressure from the "gene hunters", the pharmaceutical and research companies, who are searching for bio-

logical resources in the indigenous territories. In order to avoid coming into direct conflict with state agencies and foreign companies on their lands, the indigenous people of the lowlands have decided to participate actively in the debate and in the formulation of guidelines on access to genetic resources and the protection of indigenous heritage.

CIDOB has participated actively in the formulation of a Bolivian regulation regarding access to genetic resources: plants, animals, micro-organisms and so on. The regulation guarantees recognition of the knowledge held by the indigenous peoples and peasant communities regarding these resources when someone - it could be a Bolivian or foreign company or institution - has an interest and wants to gain access to the biological resources on their land. The government has agreed to establish mechanisms which guarantee participation in the profits derived from genetic resources through their representative organisations. The idea of indigenous researchers jointly participating in the institutions' investigations is also being promoted. CIDOB has used these favourable circumstances to the benefit of indigenous demands, although not all of the indigenous movement's observations have been taken into account. Furthermore, the regulation remains to be seen in action. It was approved in July 1997 and there has still not been one case which has involved resources around which the indigenous people have knowledge. As part of the issue of access to genetic resources, CIDOB is currently carrying out a study at national level on the preservation of traditional knowledge. This not only includes knowledge of plants and other biological resources but also knowledge in all of its indigenous cultural manifestations: handicrafts, songs, legends etc. It is a question of establishing a particular way of effectively protecting the collective intellectual rights of indigenous peoples throughout the Bolivian territory. The study is going to be presented to the Andean Community with the objective of searching for a method at an Andean level.

Municipal Elections in 1999

The indigenous movement is already preparing for the last elections of the millennium: the municipal elections to be held in December 1999. Different indigenous organisations are preparing for their participation in the local political arena through training schemes for councillors and mayors. The opportunities are many, and at the same time the indigenous people are lobbying for an amendment to the law regarding municipal regulations which would avoid the current situation of the office of mayor changing virtually every year.

BRAZIL

1997 was not a good year for the indigenous peoples of Brazil. Of the 27 ratifications of indigenous areas which were signed with great formality by the government on 3rd November 1997, 17 had been awaiting signature for almost a year and a half, demonstrating a lack of commitment on the part of the authorities to keep to the established time frame. At the same time, no progress was being made with another 56 indigenous areas awaiting recognition, also through lack of political will.

The government also proved its lack of interest in the indigenous peoples by providing only 3 million dollars for the demarcation of lands and no funding at all for the task of land identification. It should be remembered that, according to FUNAI, the National Foundation for Indians, there still remain 179 areas to be identified and that the time frame established for the conclusion of all the demarcations of indigenous areas expired in October 1993.

According to complaints made to CIMI, the Indigenous Missionary Centre, decree 1775/96 has only served to invalidate new demarcations, to encourage invasions of indigenous lands and to put the already demarcated areas awaiting finalization of the process at risk. The 70 *Katitaurlú*, a *Nambiquara* group from the Guaporé Valley in Mato Grosso, saw their territory of 67,000 hectares invaded by 8,000 'garimpeiros' who brought in a thousand dredgers and countless lorries to prospect for and extract gold from the subsoil. Under pressure from international opinion, the government managed to remove the

invaders but this area, which was one of the best conserved in the region, had already become a lunar landscape with ravines and craters 20 metres deep. Meanwhile, the 'garimpeiros' still hope to return to the area.

Whilst a number of Asian companies invested 500 million dollars in the Brazilian timber industry in 1997, illegal logging of hard woods affected 80% of indigenous areas, causing violent conflicts between the logging companies and indigenous people. IBAMA, the Brazilian Institute for the Environment, made complaints against a number of companies. However, most of them had authorization from the federal government and the support of many local politicians.

Those indigenous people who entered into agreements with logging companies regarding the extraction of wood received ridiculous sums. In the case of the *Kayapó Gorotire* people, they received 4% of the value of the mahogany removed from their territory by the timber companies.

The huge fire in Roraima destroyed 37,000 square kilometres of savannah and forest lands. The *Yanomami* area was affected to the south of the river Catrimani, causing a great deal of damage to this indigenous territory.

There are also a number of large hydroelectric projects threatening both ecosystems and indigenous peoples in Brazil. The sluice gates of the Serra da Mesa dam in Goiás are going to be closed and the area where the indigenous *Ava-Canoeiro* live will be flooded, endangering their very existence. Furthermore, both indigenous and environmental groups denounced the Paraná-Paraguay waterway, which will cause great upheaval in the fragile Pantanal complex and in the tributary rivers, especially for all the indigenous peoples of the region who depend heavily on the rivers' resources.

Various deaths were caused through negligence and a lack of resources for, and interest in, the provision of medical care during 1997. Cases of AIDS have begun to appear in some indigenous areas and in the State of Pará, 95% of the 127 *Arara* indigenous people, who have been in contact with the outside world for scarcely 12 years, are infected with blenhorragia, which has been transmitted by sexual contact with the local mestizo population. Although the CIMI requested

urgent medical assistance, the Coordinator for Indian Health sent only one doctor in six days.

The 20th April 1997, the Day of the Indian, was tarnished by murder and violence. Such was the case, for example, of Galindo, a member of the *Pataxó* people, who was burnt alive whilst sleeping at a bus stop in Brasilia. The five youths who committed the crime were from the local elite and said they did it "for fun".

Some indigenous groups managed to largely avoid the violence and aggression. Such was the case of the *Enauené-Naué* in Mato

Yanomami men, Brazil (Photo: Alejandro Parellada)

Grosso. This indigenous people of 260 managed, albeit with some difficulty, to consolidate their territory of 752,000 hectares, which was recognized in 1996, and to restrict the problems of invasions of their lands.

PARAGUAY

1997 has been no exception to the last few years, which have involved a process of democratic transition following the political opening-up in 1989 after almost 35 years of military dictatorship. Government priorities have continued to be focussed around the electoral process and the renovation of the whole bureaucratic state apparatus. This process, aggravated in political circles by conflicting sectors of the Colorado Party, is developing within the framework of a deep crisis in the dependent capitalist model, shaken by the bankruptcy of many banks and financial companies, the closure of existing small industry and the excessive rise in the dollar.

Within this context, social demands have gradually increased. This has included indigenous demands, which essentially continue to be the reinstatement of their traditional territories, along with greater support in the areas of health and education. There have also been demands for greater transparency in the handling of public funds by INDI, an institution which has been the object of serious corruption complaints, even in court.

Because of the repeated complaints of irregularities made both by indigenous people as well as their supporters, the President of the Republic, Ing. Wasmosy, was obliged to dismiss Valentín Gamarra, head of INDI, and replace him with an eminent leader from the pro-government party, Mr Julio Colmán. Lacking in training on the subject, he was, however, loyal to the interests of the governing group in Paraguay.

In spite of this difficult panorama, some indigenous peoples have been leading very worthwhile sectoral struggles which set an example to the rest of the native peoples (for example, the *Enxet-Angaité* of Corai, the *Enxet-Lengu* of Sawhoyamaxa and the *Enxet-Sanapaná* of Keyleyphapopyet and Lamenxay). They have thus been able to exert

new forms of pressure on the government to try to speed up solutions to particular issues.

One of these was the occupation of a central public square in Asunción for three days by some 70 indigenous members of the Coraí community of the *Enxet-Angaité* people. At the same time, apart from occupying the aforementioned council land, these people have carried out many demonstrations in the centre of the capital, demanding the payment of compensation for the 15,000 hectares of land restored to its owners so that they could recover full control over the assets in question. The objective of the protest was achieved and this action has become an important milestone in the historic aspirations of the indigenous people.

Another event which has had enormous repercussions was that organized by the Enxet-Lengua indigenous people of Sawhoyamaxa. After many years of subjugation on a cattle ranch, they decided to abandon 'en masse' their poor village, where they were tolerated with very little goodwill from the owners of the area, in order to go to the lands they claimed and occupy a strip of land just opposite their ancient habitat, right on the public highway, whilst a possible project of expropriation, which it was hoped would benefit this indigenous people in their desire to gain restitution of some 14,000 hectares of land currently under discussion in the Chamber of Deputies of Congress, was debated.

On the surface such means of exerting pressure are nothing out of the ordinary, but if they are seen within a context in which such practices are virtually the exclusive domain of Paraguayan peasants and other social groups and not something undertaken by the indigenous who, for a long time have restricted themselves to patiently awaiting recognition of their claims, it can be seen that it perhaps represents the commencement of new forms of struggle on their part, as they begin to become true protagonists in the search for recognition of their rights by the Paraguayan government, which presides over a multi-cultural and multi-ethnic state

Continuing on the issue of land claims, another case of particular significance was that of the Enxet-Sanapaná from the Keyleyphapopy and Lamenxay communities who, for the first time in their capacity as

indigenous peoples, sent representatives of Tierraviva CEJIL on their behalf to the Inter-American Committee for Human Rights of the O.A.S. to ask for their intervention before the Paraguayan government for failing to comply with the international treaties on indigenous peoples which had been signed by the country.

Fortunately, the processing of this case within such a high international body culminated in a commitment on the part of the Paraguayan government to acquire around 21,000 hectares of the land claimed by these communities for subsequent restitution to them - that is, the people of the enxet-sanapaná - at no cost, at the beginning of 1998.

Land Restitution

One of the most important cases of land restitution carried out during 1997 was the return of some 100,000 hectares of 600,000 hectares claimed for a number of years by an *Ayoreo Totobiegosode* community. This community, which is made up of a completely forest living sub-group (the last in Paraguay), is the centre of one of the largest land claims in the country, through its leaders and supporting institutions.

Indigenous Situation in the Eastern Region

Problems caused by scarcity of land in this region also affect the indigenous population, but with an even more subtle angle on the problem: subjugation by Paraguayan peasants who also suffer from a lack of land and who, on many occasions, have occupied indigenous lands.

Thus, the pressing issue of landless peasants, to which must be added the indiscriminate felling of forest due to lack of control of the paper trade with Brazil, has affected a number of indigenous peoples, in particular the *Mbya, Guaraní Ñandeva* and the *Pai Tavytera.*

The government, in its desire to find a "solution" to the conflicts between peasant and indigenous populations and, in some cases, between the indigenous peoples themselves - as in a case in Acaray-mí, in the district of Hernandarias, department of Alto Paraná - sent in the so-called Rural and Ecological Police, who on each occasion, rather than finding a solution, have caused anxiety and uncertainty for a number of indigenous communities. Their presence in the villages, in

uniform, causes distortion and disintegration of indigenous culture and the very status of these indigenous communities, which protects these people in their fight for government under their own laws and ancestral guidelines, is put at risk.

CHILE

In order to gain a better understanding of events in Chile of concern to indigenous people during 1997, at least two related issues need to be considered. The first is concerned with the variety and number of indigenous associations, both in urban and rural areas. The second is related to the way in which the discussion, promulgation and application of the Indigenous Law has influenced the relations established between indigenous peoples and the Chilean state.

A difference can be noted between those indigenous associations which define themselves as "institutions", that is, those which organize development activities with support from "organizations", and those organizations themselves, which represent the interests and demands of indigenous people, be they students, men, women, peasants or city workers.

Background

Under the military regime, particularly from 1979 to 1989, indigenous organizations appealed for the "communities" to be united, with the majority against continuity of the regime. The organizations had varying degrees of mobilization capacity and they could not prevent government measures from being implemented. Nevertheless, they came together to establish an agreement with the Coordination, which was later to form a government. Since 1990, most have coordinated around discussions concerning the draft Indigenous Law and they have had relative success in mobilizing their members and influential sectors to participate in this process, which is under the control of the Special Commission for Indigenous Peoples (CEPI).

Since the promulgation of the Indigenous Law at the end of 1993 and up until the beginning of 1997, that is, for almost four years, indigenous leaders came together in a number of ways to put the Chil-

ean government's indigenous policy into practice, through the National Council for Indigenous Development (CONADI).

From 1993 onwards, the organizations did not generally mobilize around anti-establishment actions or actions of protest, and when they did these were very low key. Direct action that was not in line with government action came to a virtual standstill. However, socialization and stimulation of different "territorial" conflicts, along with dissatisfaction with regard to CONADI's actions, led to an increase in coordination amongst the "institutions", as well as the voicing of open and public criticism on the part of the leaders of the "organizations", which gained strength during 1997.

The Situation in 1997

Of the southern peoples, the *Kawaskar (Alacalufe)*, *Aonikenk (Tehuelche)* and *Selknam (Ona)* - of whom there remain no more than one hundred families - were the first to sustain a certain level of organization in order to request CONADI's support for initiatives of cultural rehabilitation and small-scale economic investment.

They *Aymara* people, (approximately 48,000 people in total), began to move from the Andean communities to towns in the valleys and along the northern coast. Enforcement of the 1981 Water Law (Código de Aguas) enabled mining companies to take control of these people's water sources and tributaries. Although a crisis situation halfway through 1997 caused the small and medium sized mining companies to drastically reduce their staff, the Aymara's water rights have not been reinstated.

The political and economic rights of the *Rapa Nui* people, (approximately 21,000 people on the island and mainland), have been curtailed because recognition of the authority of their Council of Elders is being refused and they are not being permitted direct control of the flow of tourists into the area.

The *Mapuche* people, (numbering more than a million), have been active in many areas over the last year. Between April and July 1997, the different associations organized three Extraordinary General Assemblies of the Mapuche People with the central theme of "land con-

flict". During the same period, the government changed the directors of CONADI, and CONAMA came down in favour of ENDESA's "Ralco Project". These were actions which mobilized the coordination of Mapuche participating from the associations with those of public bodies, students and teachers. It provided the conditions for an increase in mobilization: assemblies of 100 or 200 delegates, meetings of community associations, organization for the support of Mapuche affected by the consequences of the projects and so on.

For its part, CONADI has been supporting and promoting the achievement of a National Mapuche Congress, which will enable dialogue and negotiations to be maintained with the different sectors of the mapuche movement. However, during the last months of the year, a number of conflictive situations between communities and companies led to a hardening of the national and regional governments' position, which have consequently applied restrictive laws in order to prevent an increase in such actions.

Support from certain sectors of the government for ENDESA's "Ralco Project", construction of a coastal highway, extension of the Central Highway (Temuco by-pass), appropriation of land by forestry companies and control of water by mining companies are all just some of the situations which are giving rise to profound problems, problems which are not being resolved democratically or fairly and which are bringing about discussions around land rights and the rights of indigenous groups as peoples.

ARGENTINA

In spite of the persistence of indigenous rights violations in Argentina, some important events took place during 1997. Firstly, the development of the programme of Indigenous People's Participation (IPP) went through a number of stages and forms. Arising from the need to give substance to the indigenous rights recognized in the constitutional reforms of 1994, this programme encompassed a massive mobilization of virtually all indigenous peoples, their organizations and communities. In successive meetings, indigenous participants gave a detailed analysis of a situation which, despite some differences, they share

through the historic reason of their subjugation to a foreign economic, political and cultural system.

Taking these analyses as a starting point, a list of demands to be made upon the State was drawn up, with a view to building the foundations of a new relationship between the State and indigenous peoples. These activities culminated in an Indigenous National Forum, which was attended by more than one hundred community and organization representatives who spent a week working on the formulation of a document to be presented to the members of the National Congress.

In spite of the diversity of cultures and peoples who came together for the first time to discuss issues relating exclusively to them, it was considered that, albeit tentatively, a common platform of demands was achieved around three basic concepts: indigenous people, territory and organization.

The distinct processes of conquest and colonization between the different regions brought about unique situations for the various indigenous peoples and this was demonstrated in the forum by the existence of differing opinions. In some provincial states, the lack of sufficient state or privately owned land forced the participants to think imaginatively in order to come up with a proposal capable of satisfying indigenous families living in urban and rural areas whilst at the same time not infringing upon their claim for territorial lands.

From now on, one of the greatest challenges facing the indigenous peoples will be that of maintaining a common organizational front based on these demands, given such diversity amongst them. Any form of organization must be able to exercise control over the actions of the State in relation to issues affecting the lives and futures of indigenous peoples.

Given that laws must be promulgated in order to put into effect the rights established within the National Constitution, special care will have to be taken to avoid non-indigenous legislators from modifying - be it partially or fully - the opinion of the indigenous people contained in the document which arose from the National Forum.

Meanwhile, the leadership will have to remain in permanent dialogue with the State authorities in an attempt to encourage them to

change their attitude from one of protective supervision and political clientilism to one of mutual respect and recognition of full indigenous participation.

There clearly remain many things to be discussed. Amongst these, a key issue is the danger of manipulation which may hide behind the providential face of the development programmes which international funding agencies are increasingly making available to the national and provincial states through their indigenous agencies. A thorough cost benefit evaluation in relation to indigenous people's demands has yet to be carried out by the Argentinean indigenous movement.

Given that their complaints and demands have gone unheard for centuries and that they have been excluded from all the decision-making processes affecting them, the material needs of the indigenous communities are clearly enormous. Nevertheless, recognition of their ethnic and cultural identity will not be achieved by idealizing their folklore or commercializing their material characteristics but through taking concrete and definite actions around demands for justice and for equality in the face of the law, whilst recognizing that they lead a different way of life and wish to continue to be different. In this sense, there remains much ground to be covered by both sides. On the part of the indigenous leadership, the main challenge now is to be able to create organizational forms which are capable of building unity within diversity in order to achieve the objectives which have been set. On the part of the State, the challenge will be to truly open up political spaces where indigenous people can express themselves as culturally and politically autonomous peoples, and to plan, manage and control future forms of development according to their principles and wishes.

More or less alongside development of the IPP, a programme was carried out with funding from the World Bank via the Institutional Development Fund (the IDF grant for indigenous people in Argentina), implemented locally by the National Centre for Community Organizations (Centro Nacional de Organizaciones Comunitarias - CENOC) of the Ministry for Social Development of the Nation. The aim of this programme was training in order to "strengthen indigenous institutions and communities so that they can improve their participation in

133

the decision-making processes of self-managed and governmental projects, as well as those funded by the World Bank". It was specifically dedicated to "training in the planning and implementation of projects of ethnic development, strengthening the network of representative indigenous organizations and strengthening relations between this network, the government and the World Bank with regard to development projects".

Because of the amount of funding allocated to the programme and because the focus of attention was placed on development, the programme necessarily could not reach members of the indigenous communities, except via the training of a few leaders. In practice, its simultaneous implementation alongside the IPP caused confusion amongst, and fragmentation of, the indigenous movement. This was undoubtedly a brief example of the problems outlined above.

Furthermore, despite the dangers already noted, the National Institute for Indigenous Affairs (NIIA), whilst carrying out concrete actions to counter the confusion and fragmentation in the indigenous movement, institutionalized the legal status of the indigenous community through an administrative facility of the Ministry for Social Development of the Nation.

It becomes very difficult to believe in the innocence of the nation's executive powers when, through three of its agencies, it simultaneously implements three programmes/projects which increase confusion and, possibly, delay the opportunity of making indigenous expectations with regard to their claims concrete. Through the NIIA, the Ministry for Social Development of the Nation financed the IPP. Without waiting for the results of indigenous deliberations within the IPP, the NIIA decided to go ahead with carrying out the legalization of the indigenous communities according to a model designed by technicians of the State body. They are now in the process of issuing this legal status throughout the country. Lastly, CENOC - also dependent upon the Ministry for Social Development of the Nation - implemented the World Bank's training programme.

Thus, in order to try to evaluate the events of the year with regard to indigenous rights in Argentina, we must look at what has become of

some of the concrete examples of conflict within the indigenous struggle.

In Chaco Salteño, the governor of Salta province still refuses to meet with the Lhaka Honhat Association of Indigenous Communities, which encompasses five different peoples *(Komlek, Iyojwaja, Nivacklé, Wichi* and *Tapy)* in order to search for a solution to their claim for land title to their territory. A year after the peaceful occupation of the international bridge between Misión La Paz (Argentina) and Pozo Hondo (Paraguay), along with a written commitment on the part of local government to hand the land over to the indigenous and Creole populations, this commitment has still not been fulfilled by the authorities. Not without surprise, the nearly 6,000 indigenous people living on State Plot 55 received notice that the National Supreme Court of Justice had rejected their appeal regarding the recourse to protection denied them by the Salteña Court of Justice. It remains therefore to continue the legal fight by making representation to the Inter-American Court of Human Rights.

Meanwhile, environmental degradation in these territories is increasing, both for the indigenous and for the Creole populations. The water supply is becoming increasingly limited for indigenous families, who have to compete for it with the creoles' cattle. The fencing put up by the creoles to close off their "claimed lands" also fence off the water supplies. Women are denied free passage to harvest the fruits of the carob tree by the use of threats and weapons. The Pilcomayo river, which is a source of abundant fish, is suffering repeated threats of contamination because of toxic waste spillages from mines in neighbouring Bolivia. The level of undernourishment amongst indigenous children seems not to worry the authorities. The imminent urbanization of the bridge zone, private property development plans, the planning of roads across indigenous territory, of Mercosur development projects, are all talked about and indigenous people are asking, "How long do we have to wait?" In November, Survival International published, in European newspapers, an international campaign in support of indigenous claims in countries such as Argentina, where it said the government had hoped to avoid fulfilling the law through spurious arguments. This annoyed the national authorities greatly, who initially

had appeared interested in mediating in the conflict. Nevertheless, the governor of Salta province persists in refusing to listen. Or is it perhaps that the national authorities are not shouting loudly enough?

Given this state of affairs, the Lhaka Honhat Association's hopes are centred around maintaining organizational unity, that is, a united front in the fight to resist the perverse desire of the provincial state to "wait until they get tired" whilst trying to divide the communities, buying their leaders' silence with bribes and personal favours. In the same province of Salta, another conflict regarding territorial land seizures continues to be the motive of protest and complaint on the part of the *Kolla* people, based in four communities, San Andrés, los Naranjos, Rio Blanquito and Angosto de junio de 1997. Leaders of the Kolla Tinkunacu people were arrested by provincial police at the very door of their headquarters, accused of causing a disturbance on the lands of the El Tabacal and Seaboard Corporation refinery. The conflict dates back to 1986 when, through a governmental decree, the province accepted the donation of 79,000 hectares from the San Martin tobacco plantation for the indigenous communities, leaving a strip of land free which would become the property of the multinational Seaboard when the refinery sold its shares to them. This took no consideration of the territorial rights of the kolla people which cover this area.

Not satisfied with the repression carried out on the part of specially trained representatives of the Seaboard Corporation, the provincial state's reply was, as in other cases, to resort to legal means. However, the persecution and imprisonment of their leaders has not stopped the community of more than 350 Kolla families from continuing to hold protest marches, both in Buenos Aires and in Salta to demand their legitimate rights. Direct intervention on the part of the National Institute for Indigenous Affairs managed to get Seaboard to withdraw their staff from the zone, but it has not been able to put a stop to their colonialist plans which continue to be fulfilled through the indiscriminate felling of trees, with consequent erosion of soil and loss of essential pasture for the livestock of these people who rely primarily on livestock and cultivation.

Further to the south of the country, the *Mapuche* people is also being prosecuted by the Neuquén state justice system, for the crime of having their own lands seized. After agreeing to the formation of a "committee for dialogue" between the Ministry for Social Development of the Nation, the State Governor and the Mapuche authorities from the communities of Salazar, Norkinko, Ruka Choroy, Puel, Catanlán and Currunul, these latter were excluded from the discussions. As expressed in a communication from the Coordination of Mapuche Organizations, this committee which will "define the future of the Mapuche and its lands in Pulmarí... is a committee.....without Mapuche representation!", since Mapuche representatives would only be later summoned to be informed of the decisions taken by the national and provincial authorities on their behalf. Meanwhile, the document continues, "the incessant parade of Mapuche members of the communities of Salazar, Aigo, Norkinko and Puel before the Zapala Court of First Instance continues". Paradoxically, the Mapuche complaint of "corruption and enrichment" made against the board of directors of the Pulmarí Interstate Corporation two years ago, is getting nowhere. Standards of living amongst Mapuche families are deteriorating; the families are prohibited from using their lands for winter or summer pasturing; there are delays, limits and restrictions on the availability of guides for the collection of firewood, something which is crucial in this area of the country which has long and intensely cold winters.

At the end of the year, the committee called a meeting in the area and summoned the communities together to inform them of their future plans. This was to include a total substitution of the land area and, in relation to the territorial distribution, it proposed as a solution the revision of concessions granted to the Mapuche (sic) and not those granted to foreign businesses and mining companies. The situation is currently one of frustration and skepticism. Many Mapuche have been prosecuted and there are more than twenty cases outstanding. There has been serious ecological damage to the 110,000 hectares in Pulmarí through irrational and uncontrolled management; the Pulmarí lake has been handed over to a foreign businessman, where investment has not stopped despite the mapuche claims that this is a sacred site, the cem-

etery of their forefathers and of notable figures from their history as a native people.

There is now skepticism with regard to the law and state justice because of the actions of the authorities and proof that "dialogue" has been an instrument employed to wear down "the wishes of the people and...demobilize them".

Finally, in this, as in previous cases, the international community has intervened on the side of the indigenous community in a number of ways, requesting the State to comply with its obligations, but realizing that there was an absence of any determined will on the part of the latter to support the territorial rights of indigenous peoples.

URUGUAY

Officially, there are no longer any organized indigenous communities in Uruguay, nor memory of indigenous ancestry. It is stated that Uruguay's population is largely made up of descendants of European immigrants. The reality is more complex.

The Afro race in Montevideo is very difficult to hide. It is acutely noticeable that African features are more frequent amongst inhabitants of the poorer districts. Uruguay hesitated for decades before abolishing slavery, and now does not provide equal opportunities for the Afro-Uruguayan population. The presence of this people alone shows that a 'population made up solely of European immigrants' is nothing but a racist fiction. Fortunately, popular Uruguayan music has African roots which are impossible to conceal.

The children of the original native population of Uruguay found it easier than the Africans to blend into a population of predominantly dark-haired and dark-eyed people.

Blending in was essential if the indigenous people were to survive, as the State commenced a policy of genocide in 1831. Yet even today, research into genetic indicators proves that overall, the Uruguayan population, both urban and rural, demonstrates an ancestry which is 18% African and 16% indigenous.

With regard to current culture, many of the economic, technological and ritual practices of the popular sectors of today's society are

clearly tinged with African and native traditions. Elements of combined spirituality are alive throughout the country, although to simplify, it can be said that a syncretism of Afro-European culture is predominant in the cities whilst Euro-indigenous syncretism predominates in the rural areas and smaller towns of the interior.

On the other hand, there are small *Guarani* refugee communities in the country. They prefer not to reveal their presence, blending in to the popular sectors, but their shanty towns on the outskirts of the urban areas preserve their productive and ritual traditions with a great deal of purity.

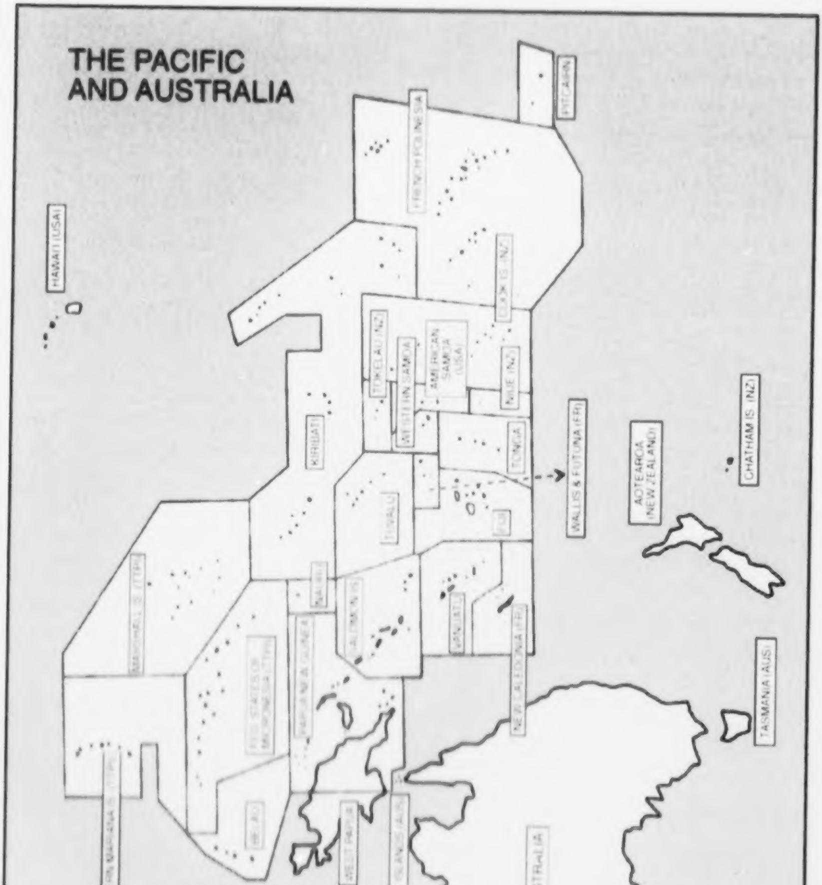
Charrúa communities have not been detected, although there are hundreds of Charrúa descendants who continue to preserve their practices of traditional medicine and associated religious customs.

Recent research work has discovered conical stone temples up to two metres high and new pictography reveals that the indigenous population of the grasslands had developed a much more complex cultural life than had previously been thought. If you add together the research into 'invisible' agriculture (no ploughing), management of the ecosystem and medicinal herb gardens, the question has to be raised as to why none of this has ever been mentioned in any book on national history. The obvious conclusion is that the State, which persecuted the indigenous population to the point of extinction, also decided to 'devalue' its culture. Survivors, for their part, endeavoured to keep quiet about the situation. There was only one brief point in history, up until 1820 during the rule of the popular independence leader, José Artigas, when cultural diversity was respected.

There are two 'historical' indigenous organizations in Uruguay, the 'Asociación Indigenista del Uruguay' (Indigenous Association of Uruguay) and the 'Asociación de Descendientes de la Nación Charrúa' (Association for the Descendants of the Charrúa Nation). Recently, others have been set up such as 'Sepé' in Montevideo, 'Ahijuna', 'Desde del Adentro' ('From Within'), 'Berá', 'Inchalá', 'Guyunusa' and 'Piri' in the interior of the country. Several of them make up the 'Federación Indigenista Artiguista Multiétnica' (Multiethnic Indigenous Federation of Artigas) which works in the following areas:

- Defence of the historical and cultural heritage of the indigenous population of Uruguay, including keeping ancestral memories alive.
- Calling for the return of the remains of Charrúa brothers and sisters who were taken prisoner against their will and died in other countries during the genocide of the 19th century.
- Revision of the official history books which are, for the most part, racist in content.
- Support to the indigenous peoples of the continent, especially those within Uruguayan territory or those of the Charrúa diaspora who are found in neighbouring countries.

140



Countries/regions covered in this issue: Te Ao Maohi (French Polynesia), Kanaky (New Caledonia), Bougainville, Kiribati, Aotearoa (New Zealand), Ka'Pae'aina (Hawai'i), Belau, Marshall Islands, Kiribati, Kirimati, Tuvalu, West Papua

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THE PACIFIC & AUSTRALIA

AUSTRALIA

Australia's New Race Politics

Australia will have two race elections in 1998. The national government and Queensland state government both expect that anti-Aboriginal feeling and their plans to abolish the content of Aboriginal and Torres Strait Islander rights recently recognised by the highest court will win them re-election. These campaigns will further inflame racial tension and do great harm to Australian society, of course. They will also set a bad example, e.g., in Asia where many minority peoples are already under intense pressure in the name of 'national development' or 'national unity'. If one developed and well-educated European country can do this to its indigenous peoples despite the many developments in human rights since 1945, more will follow.

Asia is an important audience for Australian policy. When the Howard government refused to sign a trade treaty with the European Union in 1997 because of a standard clause respecting human rights, it was done to win support in Chinese and South-East Asian governments. Not surprisingly, Aborigines in Australia feared it was also a signal of how the government intended to treat them at home. Australia has received much negative publicity over the issue in Europe. When Aboriginal leaders visited Europe on a speaking tour in 1997, the Prime Minister condemned it as a 'stunt', as unpatriotic. Meanwhile his own government and the major resource industries avidly collect information internationally to help defeat or pre-empt indigenous agendas in Australia.

In fact, 'stunts' is not a bad way to describe the Howard government's style. Australia may be setting the standard for use of low political theatre on indigenous issues (and much else) to keep polls and the daily TV news and 'talkback' radio attentive and friendly while the government gets on quietly with the business of redirecting national wealth to its powerful political friends. Howard's government

uses popular complaint not as one indicator among many but as a major source of policy advice. In part this reflects John Howard's lack of comfort with any but narrowly economic issues, i.e., he doesn't know any better. Also, his party's trauma of long years out of office has unified their many fractures and fractures on one principle: to stay in office. However, in Australia where complaint and expectation of failure are the verbiage or humour of daily life, to see this as national purpose is mad. With such guidance the human race would not have discovered fire or the wheel.

Niceties have been thrown out the window by many leading Australian politicians in the past two years. They have used the sanctimony of respected public office to engage in cheap and divisive rhetoric; feeding rednecks and racists shamelessly while feigning personal respectability. At times the mask slips. It slipped so many times in late 1997 that the Prime Minister was slipping in polls and had the churches publicly lined up against his blatant misrepresentation of Aboriginal rights and motivations. However, he seems to have regained composure and is back to his Honest John persona. The Queensland premier, reportedly a thoroughly decent and progressive man in private, wears one mask for his rural conservative heartland to show how gruff and tough he can be towards Aborigines, and quite another for his Coalition partners' urban and more liberal districts where he is, perhaps, more like his true self.

The national government has so embroiled itself in indigenous issues since its successful election campaign of February 1996 that its fate is now tied up with the subject. This is most unfortunate because most experts expect the government to win its 1998 election, if only because Australians rarely throw out a government after only one term. The Prime Minister and his inner circle would view such a win as vindication for their anti-indigenous policies and get even nastier. Despite the fact that Australians – presumably including Prime Minister John Howard and his government – deplore cultural or ethno-racial policies carried out by majorities in parts of Bosnia, Rwanda, Kosovo, or Mexico, they comfortably assume that election majorities at home constitute moral approval. The national government's standard defence against foreign criticism now is that Australia has an ad-

mired human rights record in the world. However, indigenous rights and socio-economic needs are the biggest area of failure and lack of political will in the national record, a fact also widely known abroad.

The Howard government has nobody to blame but itself. It came into office dismissing the importance of indigenous and environmental issues. Its failures and the resulting non-stop headlines have resulted directly from stupidity and ill will in these matters. The Office of Indigenous Affairs in his own prime minister's department has been caught and confessed to spending time and money drawing up political campaign posters to undermine opposition to his policies. A national poster campaign was stopped when polling groups found the prime ministerial posters reinforced people's existing positive or negative views rather than won new supporters.

The supposed indigenous affairs minister, Senator John Herron, is a happy fellow who, in recent days – early April 1998 – has been gleefully leaping about in Parliament rejoicing at a High Court decision which rejects Aboriginal rights. Herron visits indigenous communities and is little seen or heard, after an early career of gaffes. A popular theory of political observers is that Prime Minister Howard retains him precisely in order to enrage liberal opinion and the Labor party in the style of Howard's model and mentor, Margaret Thatcher. Meanwhile, Howard has promoted his *éminence grise*, Senator Nick Minchin, to formal status as a special minister for indigenous and electoral policy.

A great deal of public feeling against the Howard government has resulted from its attempt to use race prejudice to win political debates. In any other 'first world' country this might be decisive in an election – and one hopes it may be here, too – but perhaps no other such country has the vehement xenophobia, outright racism, and disdain for indigenous cultures found in another large section of the Australian public. Australia has as many or more decent people as other countries, but it is the passion of the rest who make the country unique. Governments and oppositions alike have failed for decades to educate that

public, fearing voter backlash. And so today a national race problem of a type which many countries have overcome is recurring here.

The *Wik* Debate

The *Wik* land rights decision of the High Court in December 1996 has continued to be the main daily indigenous political issue (see *The Indigenous World, 1996-97*, pp 122-124). Prime Minister Howard threatened to call an election if the Senate, the upper house of parliament which the Howard government does not control, rejected his legislation to reduce the impact of the *Mabo* and *Wik* decisions recognising Aboriginal and Torres Strait Islander rights. By rejecting his proposals twice, the Senate opens the way for Howard to have a special election after which he can pass his legislation in a joint sitting of both houses of parliament, if he then has the numbers to win the matter. It is expected that he will have this possibility after early April, and that he will use it later. Queensland, whose graziers and farmers are the hardest hard core of national opposition to native title rights, is expected to have an election early in the year on the subject.

The issues have never been properly discussed, but only in narrow and hysterical tones led by the Liberal and National parties and by extreme groups including outright racists. It has been sad to see two Queensland senators from the National party, normally eloquent and noble on racial issues, desperately showing how hard they are prepared to fight against native title and how much they will do to demonise Aboriginal claims. The president of the National party, the junior partner in the Howard government coalition, is the largest pastoral landholder in Australia, as it happens!

Meanwhile, the 'constitution' of English-speaking countries relies heavily on traditions of common law and of the way that law is respected by governments. If governments suddenly begin to abolish rights and titles recognised by the highest courts, as is happening to Aborigines and Islanders, they are putting much more at risk. The whole legal foundation and culture of respect for law are in danger. Today we abolish the property rights of blacks. Whose rights may we take away tomorrow? Asians, or Jews, or graziers? For a foreign observer the

strangest thing about the debates since *Mabo* (1992) and *Wik* (1996) has been the blindness of conservative elements in Australian society to such basic principles, the very principles on which they have proudly based their political and social outlooks.

In 1997 the National Farmers Federation, the most publicly vigorous interest group opposing native title, made TV ads showing a black child cheating to beat a white child in a game. These ads, and others like them, were shown in 'prime time', e.g., mixed with the evening news. Later in the year the Prime Minister went on TV holding a little map showing 80% of Australia in one colour and saying that Aborigines would now hold the power over development of all that if he did not act to stop it. When the churches spoke out strongly at this tactic, Howard was surprised and called them 'bullies'. This brought laughs of derision from church leaders on the TV news, some of them pointing out that this was the first time in Australia's history of white settlement that the churches had all agreed on something.

Indigenous, opposition, church, and other groups have called for a halt to the native title furore. They have proposed that a discussion forum be set up at which the various interested parties could have studies done and work out a reasonable arrangement for the government to enact. Of course, this does not suit the Prime Minister or the National party, the latter being said to be preparing not only to take over all native title rights but to transfer their huge leases of land into private ownership. That is the whole secret of the issue: native title rights only apply to leases, and indigenous people must not interfere with the activities of the lease-holders. In other words, the whole public uproar is largely a misunderstanding of the issue. Furthermore, the 'certainty' and 'finality' promised by the government will not result; on the contrary, Howard's legislation raises as many questions as answers, so the courts will be busy for years sorting out the mess and perhaps causing further acrimonious public debates.

The fact that there is no process in place to prevent multiple claims to an area by different groups or factions, however, has played into the hands of trouble-makers. Most claims have no chance of success is, but this is forgotten. One might claim the Moon or Tivoli as one's own, but nobody would be very worried; however, in Australia politi-

cians are pretending that Aborigines are posing a real threat to mining, grazing, farming, swimming beaches, etc. For a while the national government was even trying to frighten people in city suburbs that Aborigines could take their homes or backyards, but this caused so much angry rebuttal from churches, lawyers, surveyors, and others that it badly damaged public support for the government and was dropped as a tactic.

The government, meanwhile, has shown its hyper-sensitivity to accusations of racism in relation to its *Wik* policies. When the deputy Labor leader matter-of-factly commented to the media that the Prime Minister "is never so happy as when bashing blackfellas" (April 1998), Howard and his ministers went into shrieks of feigned outrage for several days. The question has two aspects. The first is that 'blackfella' and 'whitefella' are terms in daily use by Aborigines and by whites who work with them. These words have no pejorative sense in such context. Labor's Gareth Evans, Australia's outstanding former foreign minister, was saying no more than what anyone white or black tuned in to the Aboriginal scene would say (and would certainly believe). Howard and his ministers have little understanding or contact in that sphere, however, apart from Senator Herron's old-fashioned community visits. Secondly, the government, like many Australians, believe that if one utters pious comments about blacks on public occasions, or at least avoids making nasty ones, this is sufficient proof of goodwill. As indigenous people everywhere know too well, actions of a racially punitive government 'speak' more clearly than a prime minister's pretended offence at the use of inoffensive colloquial language.

In 1998 Australia may become one great carnival of countless evil or crazy spirits and ideas competing for public attention on the subject of race, drowning out rationality and responsible politics. It will not be accidental, but the calculated policy of a political leadership detached from the structures of knowledge, thought, tradition, and cumulative values which are the essence of any society. It will sadly set back a great country whose energy, creativity, and verve in virtually

every area of human achievement – and not only winning sports medals – have recently promised so great a contribution to the world.

Stolen Children

The *Wik* debate was at one of its periodic heights when another issue eclipsed it briefly. As two thousand delegates to the Australian Reconciliation Convention began gathering in Melbourne in late May 1997, the report on Stolen Children, or "the Stolen Generations", reached the media. This report concerned the tens of thousands of Aboriginal and Islander children taken from their families during much of the 20th century for no reason other than their Aboriginality. The purpose of the policy was to hasten the expected extinction of the Aboriginal race as a whole, and to assimilate indigenous youth into the lower classes of white society. The report was full of personal accounts of the brutality with which white officials separated children from their mothers and the emotionally deprived and often physically abusive lives they led in private homes or public institutions afterwards. Indeed, these accounts are the reason for the report's great impact, and for the strong support of white persons who have read it.

Despite posing as a government of 'family values', Howard, Herron, and some of their colleagues managed to appear utterly unable and unwilling to understand the human suffering involved. Herron claimed that Aborigines were fortunate to have been taken away, that they received better education and job prospects as a result. That claim is especially startling because the report specifically studies and disproves such beliefs. However, like so much in Australian Aboriginal policy, the government has no interest in facts, only in using black people for white political advantage.

A particular concern of the report, and of indigenous people in general, is the long-term effect of the Stolen Children policy. That is, the damage done by the policy to generations of Aboriginal youth is being passed on to the families those individuals create when they become adults. The vast array of social problems of Aborigines today are a result. The inquiry studies found that although general employment and education levels were not improved for persons removed from

their families in the past, their chances of going to jail or having a range of other serious problems greatly increased.

The government tried a number of excuses to avoid the report's recommendation for a national apology, thereby adding insult to injury for the many Aborigines affected. A great many indigenous leaders were Stolen Children themselves, so they now have a more visceral and well-deserved loathing of the Howard government than before. Health minister Michael Woodridge, probably the best informed minister on indigenous issues, was put on the spot in an interview about the report. After a significant pause he said that Australians were not yet ready for a real apology because they did not yet understand what Aborigines and Islanders had suffered in this country. One could not help but think he was speaking about his cabinet colleagues.

The Convention in Melbourne had been planned for years but inevitably provided a focus for the Stolen Children issue no less than the overall issue of black-white relations. On the first morning the Prime Minister gave a speech which began well. His apparent attempt to sympathise with Stolen Children was well received, even though it fell short of a government apology. However, he suddenly began shouting at the audience about the *Wik* native title issue, infuriating most people present, many Aborigines standing and turning their backs to him, a strong cultural protest. Of course, the speech was probably calculated to offend, to rile the crowd, in order to win favour with mining companies and the rural sector. It also deepened an urban non-indigenous view that the Prime Minister is insensitive and out of touch with social and cultural realities.

Of course, the Prime Minister had plenty of redneck support. There was also public confusion and dismay at the report's conclusion that Australia had violated the international genocide convention it had signed after World War II. To most people, of course, genocide means mass slaughter, and although there has been plenty of that in white-black relations in Australia in the past, that was not the subject of the report. The report said, simply:

The policy of forcible removal of children from Indigenous Australians to other groups for the purpose of raising them separately from and ignorant of their culture and people could properly be labelled

'genocidal' in breach of binding international law from at least 11 December 1946. The practice continued for almost another quarter of a century.

For most people, however, the personal tragedies were the real story. Children were taken away, their families often prevented from ever finding them again, or were told they had died. They were separated permanently. Indeed, the whole point of the policy was to break down the family and community dynamics of indigenous peoples.

Although the report is large, expensive to purchase, and not well organised for readers, it is very powerful, especially the personal accounts. A slim paperback containing the essence of the report has now been published at an affordable price and in readable format.

State and Nation

An issue related to *Wik* remains the Northern Territory's future. Both the federal and NT governments continue to make moves towards statehood, a statehood in which the majority of the permanent NT population – Aborigines – would lose their federal land rights protection and much else to a populist development-mad government in Darwin long determined to "put them in their place". The NT government is virtually a one-party system and Aborigines, who mostly vote for the Labor opposition which has never won power, have no influence within it. In other words, the Howard government is about to transfer the lands and lives of Aboriginal people from the federal jurisdiction where they have some safeguards to a hostile government they distrust. Unlike the persistent and determined work of Alaska Natives, Canada's northern peoples, and Greenlanders to avoid assimilation to white development interests and to win substantial land and sea rights and self-government, NT Aborigines have only occasionally focused on the issue of their political future. There is no question that lack of political confidence among some Aborigines is sometimes a factor.

The co-ordinator of the National Indigenous Working Group (NIWG), Australia's national indigenous political lobby group, Olga Havnen, recently gave a thoughtful paper to a high-powered gathering of leading New Zealand and Australian policy officials. She placed

the NT and other issues into a constitutional context, attempting to break out of the black-white slanging which has poisoned the country in the past two years. She concluded with four "propositions for progress":

1. Indigenous peoples have already survived the worst that history on this continent will throw at them. We are here to stay.

2. Indigenous peoples and their traditional territories are ethnic communities or nations which are not mere collections of unfortunate people needing a hand to join the white man's world. They are cultural and political communities with memory, history, and rights.

3. There is no threat to national unity in the recognition of such peoples and homelands. On the other hand, only the strengthening of such institutions of self-help shows promise to resolve long-standing socio-economic ills.

4.The strengthening of the rural and remote regions around Australia where many indigenous people live strengthens Australia as a whole. The paranoia of Australians in World War II about the 'loyalty' of Northern Aborigines and Islanders was no slur on us – rather, it was a recognition by whites of their own often savage treatment of indigenous peoples over 150 years. The way to have one Australia is to include indigenous people, not target them for the winning of racist elections.

The Australian scene has also attracted the attention of the world's leading political philosopher of the indigenous future within nation-states, James Tully. During a lengthy stay in Australian in 1997, Tully researched and lectured on the politico-constitutional situation of indigenous peoples and usefully introduced the country to the important precedents and thinking contained in Canada's massive 1996 Royal Commission on Aboriginal Peoples report. Canada and Australia are so much alike in geography, history, political structure, etc. that there are obvious reasons for comparing them. Australia for some years was overflowing with an open and inclusive national self-assertion, and with naive hopes that a republic would symbolise a new post-British Empire order. That has now given way to the dark, isolationist, and

xenophobic side of nationalism in Canberra, however, and even in academic circles ideas or information from abroad are no longer so welcome. Petty nationalism was evident even before the 1996 change of government among many officials and scholars. If nothing else the change of government and the racist movements which have tagged along with it have reminded everyone that assertive nationalism is by no means always kind to minorities.

Government policy in Australia relies heavily on the cruel past. That is, indigenous peoples are so used to getting nothing, or being crushed when they show any spirit, and living in vile conditions, that governments can count on their despair as a national political resource. The handing out of a few dollars here and there is all that need be done to keep them divided and relatively quiet. The trouble with that approach from a white man's viewpoint is that those days are already over in the more mature parts of the country, and will soon end – probably with a bang – elsewhere. The young indigenous people and the seasoned older people with the necessary guts, savvy, or education are already on the scene; once the indigenous community follows their lead in rejecting white paternalism and "welfare colonialism" once and for all, their fury at being so long fobbed off and manipulated will more than make up for any quiet times in the white man's political hegemony today.

Some Hope for Torres Strait

The Howard government may be less negative about the future of Torres Strait than about Aborigines. The reasons for this are traditionally cordial relations between Islanders and the National and Liberal parties, a belief that their Melanesian culture make Islanders "easier to deal with" than Aborigines; a view that their offshore islands have a different moral and political status *vis-à-vis* Australia; and the less confrontational style of Islander approaches to government relations. In some ways this is reminiscent of Canadian Inuit who have been very successful politically by "not being Indians" in Ottawa's eyes. Like Inuit, too, however, Islanders have the same basic aspirations as other contemporary indigenous peoples at home and abroad. They want better

public services (especially health care); more income possibilities; recognition of their customary rights to marine areas, marine resources, and marine livelihoods; a comprehensive resource and environment management régime to protect their seas from Australian, Papua New Guinean, Indonesian, and ship-borne pollution dangers; a stronger role in the region's international relations; and local and regional self-government within, or in association with, Australia. They see all around them Melanesian and Polynesian peoples governing their own island countries or running their own self-governing island regions, e.g., within New Zealand (i.e., Cook Islands and Niue).

Islanders also have some special needs. Their region is the only border area of Australia with another country. Disease and insects, gun and drug running, and illegal immigration are all endemic in Torres Strait. Islanders already have a local health crisis, and each summer new insect pests and diseases are identified moving south through their region as squads of scientists disperse around the Strait daily in helicopters trying to seek, identify, and destroy them. For whites living in Queensland, Northern Territory, or Western Australia life has a biblical quality as we daily watch the skies and TV news for tempests, plagues, locusts, etc.

Islanders constantly demand more quarantine and enforcement powers and personnel to protect themselves. The Prime Minister visited them in 1997, as much to pose with welcoming Islanders in order to attack enemies of his indigenous policies outside the region as to show concern for quarantine enforcement. However, his government has shown some positive interest in proposals for Torres Strait regional autonomy since the release of a parliament report on the subject in mid-1997. The report was unable to go very far for lack of clear Queensland or federal government views. Also, Islanders have a lot of work to do in political mobilisation and developing their own proposals. However, the Committee report usefully cleared the way for a single elected assembly to represent everyone living in the region, the vast majority of whom are Islanders, and called for both federal and state governments to devolve their powers to such a body.

Islander leaders have begun holding public consultation meetings on autonomy. Long-time Island Coordinating Council leader, Getano

Lui, Jr., is quoted as saying: "We must have stated where we want to be and have our position set down on paper before there is any constitutional change", i.e., before the year 2000 which has become a target date for national Australian constitutional change such as replacing the Queen as elected head of state. Indeed, at the special Constitutional Convention in February 1998 called by a reluctant Prime Minister Howard to discuss this latter issue, the sole Torres Strait representative, former leader George Mye, told the Convention: "The debate about the Australian Constitution which has led to this Convention has not addressed the considerations of a range of diverse groups such as my own within the Australian community. Norfolk Island, Cocos (Keeling) and Christmas Island territories have their own tailor-made constitutional arrangements within the national framework of Australia, as does Lord Howe Island within New South Wales. ... It is time, therefore, to consider what sort of Torres Strait regional administration and political arrangements will best meet the needs of Islanders and all Australians in the 21st century. The new report on greater autonomy for Torres Strait Islander by the House of Representatives... should focus positive thinking."

That parliamentary report also repudiated the attempt of the government to punish Aborigines by denying them similar consideration. "The Minister for Aboriginal and Torres Strait Islander Affairs has suggested that the Committee consider whether the granting of greater autonomy for Torres Strait Islanders would be seen as a precedent for a similar approach to indigenous autonomy on the mainland", it notes, but replies that "the Committee does not believe that reforms for Torres Strait Islanders should be compromised for fear of creating a precedent for others groups." "In fact", it continues, "the Committee believes that more effort should be made to help Aboriginals and Torres Strait Islanders become more self reliant and manage their own affairs." The Committee is dominated by Coalition members, but like any fair-minded people who look closely at indigenous affairs, they see obvious and uncontroversial answers.

Decline and Fall?

Australia is not the only 'first world' country where the cutting of government roles and budgets varies inversely with the volume of bombast from politicians. It is as if the lack of official work gave leaders more time to chat on 'talkback' radio shows and TV. The content of this talk is usually small-time moralising and urgings of self-help, as if we had elected prime ministers, premiers, and presidents to act as small-town Victorian daddies. No wonder the American Presidency is endangered by Clinton's private behaviour, or that John Howard's party worries about threats to his 'honest John' image. If they cannot be judged by positive actions, they must at least sound like they mean well.

It may be that all the books, documentaries and seminars for the Millennium focusing on long-term and even eternal issues make leaders look even more inadequate. A thousand years ago Europe and the 'New World' of other continents met on the east coasts of North America when Erik the Red's family and friends tried unsuccessfully to settle among or displace Algonquian Indians and Dorset and Thule Inuit. They established rights in their own eyes to call a parliament and they brought along their new Christian religion. They did not include the indigenous peoples in their plans. Only in the last few decades have some European peoples in North America and Europe appeared to learn how to do things differently, how to accommodate or reconcile indigenous and non-indigenous peoples. Australia was the last to join this movement, but in the words of the former prime minister, was trying to make up ground quickly. Now all that has been discarded. We are told by Howard and his government that Aborigines and Islanders are not people to meet and work with as equals but people to join the end of the queue for the white man's health, education, and social services.

This is especially unfortunate because Australia is the only country to date where indigenous leaders have conducted a comprehensive review and developed a national policy by means of community meetings, policy workshops, expert seminars, and lengthy heated debates over fundamental issues. These were independent of governments.

although the leaders were persons with plenty of political savvy and contacts in Canberra and the states. They published three reports in early 1995. The first looked for broad consensus between black and other Australians, the second had a precise series of recommendations outlining the next steps for both long-term and immediate reforms, and the third provided a 'virtual tour' of landscapes and seascapes of future racial reconciliation in Australia. Despite the difficult and often angry relations between indigenous leaders and the Labor governments of 1983-96, it is part of Howard government mythology that they were cosy and that he, John Howard, is now restoring 'balance'.

Howard seems to regard indigenous ethno-politics and black-white relations as subjects he can define or re-define anytime and in any manner to suit his political rhetoric. Like most Australians, he does not understand that indigenous peoples are not a unique Australian problem to be assimilated to white Australian convenience. Rather, they are part of the international experience of subjugated peoples struggling to secure equality, collective survival, and a decent future within frameworks imposed by governments and peoples who have annexed their territories. The dynamics and possibilities – and the limitations – of such relations are well known and available for study around the world. Australia might not only consult the experience of fellow British Empire countries like New Zealand, USA, and Canada, but the Nordic countries where indigenous peoples enjoy high social and economic standards even in difficult terrain like Greenland and North Norway. There is no reason why a peaceful and harmonious outcome cannot be achieved in Australia, but nothing on the horizon suggests that will happen.

Conclusion

Australian policy towards indigenous peoples is now drifting dangerously. Political parties see it either as a useful target for directing white insecurities away from themselves, or as a passive issue they can safely ignore or postpone. It is neither. Indigenous peoples are increasingly well informed, restless, and self-aware political communities through the cities, towns, rural, and remote areas of Australia. They have strong

support in the white public, although they have even stronger opposition there, especially from lower-income whites (both rural and urban) and comfortable old-timers. The social and political dynamics of indigenous peoples' movements are only incidentally related to white whims, however, and will have their own season, willy-nilly.

Instead of playing with crayons to design new advertisements for manipulating white political opinion, the Prime Minister's advisers might better inform him of the eternal dynamics of territorially-based peoples who are actively controlled, discriminated against, and denigrated by official bodies in the interests of settlers and resource companies. Their colleagues in the Department of Foreign Affairs who study international politics could give them much insight. It may be a simple matter now for prime ministers to overrule the courts when they defend Aborigines and Torres Strait Islanders, but it will be less easy to stop political violence once that phase in the inevitable phases of ethno-politics begins. It may be easy for government leaders in Brisbane, Perth, or Darwin to lock up black children and adults to make whites feel more secure in their suburban comfort – a security threatened more by sensational commercial television news reports than by reality – and to show voters they are "acting on your behalf". However, when more blacks break out from the disadvantage and despair behind which the whites of northern and western Australia have tried to corral them, they may do much more than merely destroy the tourism industries on which governments there place such high hopes.

One would almost think Australian politicians were trying to create a race relations explosion. When it comes, as it certainly will unless governments change course and change attitudes very dramatically over the next few years, it may be more painful than Ulster or the Basque country. The tragedy is that now governments have the opportunity to act intelligently and work with willing indigenous leaders to reconcile their peoples. Australia's present self-absorption may only end, ironically, when the most local and isolated of its people make the continent unpleasant daily news abroad.

THE PACIFIC

The past year of strengthened regional and international indigenous cooperation on behalf of Pacific Islanders has also been marked by the ecological catastrophes of typhoons and droughts. Furthermore, the indigenous peoples of the Pacific continue to face the harsh realities of military colonialism, economic globalization and environmental racism, which intensify a neo-colonial exploitation of the peoples of the Pacific region. The everyday life of Pacific Islanders is to a great extent determined by forces beyond their control. Prompted by the location, size and nature of their region, they continue to suffer damaging technological experiments, resource extraction and intrusion on their right to self-determination.

1998 was supposed to be the year of the referendum of the Kanak of Kanaky/New Caledonia determining their future political status. However, this vote on independence has in effect been postponed for fifteen to twenty years by the so-called Noumea Accords, an agreement which was signed by FNLKS (Front de Libération Nationale Kanak Socialiste) president Roch Wamytan, French prime minister Lionel Jospin, and Jacques Lafleur, president of RPCR (Réassemblement pour la Calédonie dans la République) on May 5, 1998 (see below).

In other respects as well, 1998 is an important year for Pacific Islanders. A cease-fire agreement between PNG and Bougainville is beginning to change the living conditions of the Bougainvilleans. At the centennial of the onset of US open imperialism in the Pacific, the indigenous peoples of Guam and Ka Pae'aina (Hawai'i) are educating themselves, the public and their governments about the significance of 1898 for the present Pacific conditions. The United States took Guam and the Philippines in connection with the Spanish-American war in 1898. That same year, the US also annexed Hawai'i and the following year Amerika Samoa was added to their possessions. In the Caribbean, the US seized Puerto Rico and Cuba. Today, one-third of Guam's small land area is reserved for military use.

Neo-Colonization and Decolonization

Today, the Pacific is home to a disproportionate share of the world's colonized peoples - reckoning traditional as well as new forms of colonialism. After fifty years of international condemnation of colonization, we still find two United States (Guam and Amerika Samoa), one Indonesian (East Timor), one British (Pitcairn), one New Zealand (Tokelau) and one French possession (Kanaky) on the United Nations List of Non-Self-Governing Territories eligible for decolonization. Add to this the indigenous peoples of Te Ao Maohi (French-occupied Polynesia), Ka Pae'aina (Hawai'i), Aotearoa (New Zealand), West Papua (Irian Jaya), Rapanui (Easter Island), Wallis and Futuna and various Micronesian peoples and nations. Social and political movements among these peoples seek UN acknowledgement of their status as peoples in the context of international law to secure their rights to reinscription on the UN list and thereby to decolonization.

However, the United Nations are under relentless pressure from especially the United States and France - the two largest traditional colonial powers in the Pacific today - to declare colonialism 'eradicated' (by the year 2000) and close down the UN 'Committee of 24'/ 'Decolonization Committee'/'Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples'.

Indigenous peoples are concerned with this pressure on the Committee and call for an extension of its work. The peoples of the Pacific, especially, do not consider the job of the Committee done. Recent developments in Bougainville (see below) point to a peace process modelled on the UN requirements for decolonization including removal of occupying colonial forces and free elections on the future status of the nation in question. Chamorro, disappointed with the US government's unwillingness to take their quest for Commonwealth status seriously, is looking into activating the UN process of decolonization, which they are entitled to according to international law. The Kanaks, likewise, now will have a need for the decolonization committee, way into the next century (see Morin in *Indigenous Affairs* 98:1).

A communiqué from the 3rd NGO Parallel Forum to the September 1997 South Pacific Forum, endorsed by the two largest regional indigenous non-governmental organizations of the Pacific, the Nuclear Free and Independent Pacific (NFIP) and Pacific Islands Association of NGOs (PIANGO), supports reinscription of **Te Ao Maohi** (French-occupied Polynesia) and other indigenous nations on the UN list of non-self-governing territories:

> "We, the delegates to the 3rd NGO Parallel Forum [...] note that the 1997 South Pacific Forum communiqué does not address the right to self-determination and independence for colonised peoples. Together with our delegates from East Timor, West Papua, Te Ao Maohi (French Polynesia), Bougainville, the Kanaka Maoli of Ka Pae 'Aina (Hawai'i), Aotearoa and Aboriginal Australia, we reaffirm our right to self-determination.
>
> [1998] is the anniversary of the annexation of Ka Pae'aina (Hawai'i), and the Kanak people of Kanaky (New Caledonia) will determine their future. People in Wallis and Futuna, Rapanui and the South Moluccas have also been colonised by foreign powers. We call for more action by the governments of the South Pacific. We call for extension of the mandate of the UN Decolonisation Committee beyond 2000, and the reinscription of colonised peoples with the Committee's list of non-self-governing territories (NGO Parallel Forum Communiqué, 3rd NGO Parallel Forum, Rarotonga, Cook Islands, 19-26 September 1997)."

Indigenous people will bring this communiqué and their reasons for it before the Pacific regional seminar held by the UN Special Committee under the Plan of Action for the International Decade for the Eradication of Colonialism, at Nadi, Fiji, June 16-18, 1998. The stated purpose of the seminar is to assess the situation in the non-self-governing territories, particularly their 'political evolution' towards self-determination by the year 2000.

The nuclear test site installations at Moruroa should be completely dismantled by July 1998 after thirty years of use. Only a small group of men would be left to control the radioactivity levels in the area for five to ten years - a very short time span, considering the time span of uranium's half life A petition is circulating in the Pacific supporting the *Maohi* people of Te Ao Maohi:

"We seek the dignity of our people to live freely in our own land. [and] call for our governments to support the Maohi people's right to self-determination and independence, to discuss this issue at the South Pacific Forum, and call for a re-inscription of French Polynesia on the list of non-self governing territories, with the United Nations Decolonization Committee."

In order to be reinscribed on the list, the Maohi are seeking the support of the South Pacific Forum at their upcoming meeting, August 1998, at Pohnpei, Federated States of Micronesia. At the Forum's previous meeting in Rarotonga, Cook Islands, September 1997, the topic of reinscription of the Maohi nation on the UN List of Non-Self-Governing Territories, was not even on the agenda, in spite of assurances prior to the meeting. Support by the Forum (led by the Melanesian Spearhead Group) was instrumental in securing the reinscription of Kanaky ten years ago. Instead of addressing the question of self-determination for the indigenous people of Te Ao Maohi, SPF readmitted its colonizer, France, as a Post-Forum Dialogue Partner with the SPF, in good company with other former colonial powers. France had been expelled when it started its last nuclear test series in 1995 at Moruroa in Tahiti. Since the testing ended in 1996, France has actively reinforced its status in the Pacific through generous economic aid to governments in the Pacific and funding of strategically important events such as regional meetings. In this way the French government's strengthening its continued colonial position in the Pacific. The people of Marquesas fear being colonized by the Tahitians, whom they expect to gain independence from France within the next twenty years, and are therefore asking to become a direct colony of Paris - according to Lucience Kimitete, the Marquesan mayor.

The *Kanak* people's road to self-determination has taken a new direction with the signing of the Noumea Accord which has had a somewhat mixed reception in the Pacific and in **Kanaky**. The efforts to resolve the question of control over nickel complicated the implementation of the Matignon Accord of 1988, but now a joint venture be-

tween the Canadian mining company Falconbridge and New Caledonia's South Pacific Mining Company to build a nickel processing plant in the northern part of Kanaky has been agreed upon. This development is expected to strengthen the pro-independence FLNKS. Since the Matignon Accords in 1988, which set the framework for Kanaky's decolonization process, Kanaky's European population has grown by over ten thousand people, out of a total population of two hundred thousand. The Kanaks now make up only 44% of the population (according to the Matignon Accords, all those resident in Kanaky in 1988 and their children can vote in the 1998 referendum). In line with UN's process of decolonization, the 1988 UN Resolution on New Caledonia requires that "an act of self-determination, in which all options should be made available, should be preceded by a comprehensive program of political education in which all options are impartially presented and consequences fully explained." During the fifteen to twenty years, the Noumea Accords extends the decolonization process, the Kanaks will need the oversight option and support of the UN Committee of 24. The preamble of the Noumea Accord states that the

> "[ ]moment has come to acknowledge the shadows of the colonial period. [...] Kanaks were pushed to the geographic, economic, and political margins of their own country. [...] Decolonization is the means to create a lasting social bond between the communities who live today in New Caledonia. [...] At the end of a period of twenty years, the transfer of the sovereign powers to New Caledonia, accession to an international status of full responsibility and the transformation from citizenship to nationality will be put to a referendum of the affected populations (not official translation)."

The people in New Caledonia will vote on the Accord in December 1998. If it is accepted, labour legislation, foreign trade regulations, mining rights, social services and other powers will gradually be transferred to a restructured government, to be elected in mid-1999. France will retain control of defence, foreign relations, justice system and currency. In order for this process of increased self-governance to take place, the French government is now amending its constitution, which

up until this time only has allowed for the two options of New Caledonia either being independent or remaining an overseas territory. The people of another France's 'overseas territories', Wallis and Futuna, are worried about this development, fearing that they will lose connections and privileges because they are governed through Noumea, the capital of Kanaky. However, in recent years, the people of Wallis and Futuna have to a higher degree moved towards supporting independence for Kanaky.

Bougainville

A cease-fire agreement between Bougainville Interim Government (BIG), the Bougainville Revolutionary Army (BRA), the Bougainville Transition Government (BTG) and the Papua New Guinea (PNG) government ending almost ten years of war between the Bougainville and PNG was signed April 30, 1998, in Bougainville's capital, Arawa. The war has cost almost twenty thousand lives. The cease-fire agreement was signed in the presence of a crowd of two thousand, including the foreign ministers of Fiji, Vanuatu, New Zealand and Australia as well as a United Nations representative. The crowd has been described by the media as being everything from enthusiastic to consisting of "some of the poorest people on the planet" who "watched without smiles or laughter or tears": "You could only see their tiredness, their weariness at war and how they had been cut off from the world for so long" (Michael Field in Pacific Islands Report 5/2/98).

The cease-fire is the first step in the so-called Lincoln Agreement on Peace, Security and Development, completed January 23, 1998, in Christchurch, New Zealand, and later endorsed by the UN Security Council. In a statement on May 13, 1998, BIG secretary and international representative, Miriori made it clear that the cease-fire agreement had come about because BRA had won the war and forced PNG to the negotiation table. The cease-fire took effect at midnight April 30, 1998. The peace will be followed by substantial economic aid from New Zealand and Australia. The European Union, the International Red Cross and the United Nations will also 'aid' Bougainville in its future development.

The question of a reopening of the Anglo-Australian Rio Tinto-owned Panguna mine (operating on lands leased from Bougainvillean landowners), which ten years ago provided almost half of the total export income for PNG, has not been made a part of the peace process. The mine operations have been protested by the indigenous landowners since its opening in 1969. It has caused tremendous environmental damage. Ultimately, the dissatisfaction with the mine sparked the war. As many other indigenous peoples, the Bougainvilleans realized that only through self-determination could they freely determine how and when they wanted to use their own resources.

Delegates at the Bougainville peace talks at Burnham Military Camp (Foto Dean Kozanic)

BIG president, Francis Ona, however, believes that the reopening of the mine is on the hidden agenda of the Australians, about whose motives for participation in the peace process he is very sceptical. (It is well known that Australia was arming and training the PNG military forces during the war). Ona has for this and other reasons not endorsed

164

the cease-fire agreement which he reportedly considers a sell-out. He calls for a referendum on independence. The Solomon Islands government has been asked to mediate between Ona and the leaders who support the cease-fire, including BIG vice-president Joseph Kabui, BRA Commander Sam Kauona and the two international representatives for the BIG, Martin Miriori, based in the Netherlands, and Moses Havini, based in Australia. According to the Lincoln Agreement, the question of independence ("the political question") must be addressed in another round of talks before the end of June 1998 - on the condition that PNG at that time will have started withdrawing its armed forces. Furthermore, all PNG Defense Forces must have left Bougainville by September 1998 as a prerequisite for a free and democratic election before December 31, 1998, of a new "Bougainville Reconciliation Government" (BRG).

Some observers contend that the Lincoln Agreement clearly implies that PNG's control over Bougainville has ended, and that BRG without a doubt will press for political independence. However, PNG's prime minister Bill Skate, has repeatedly proclaimed that independence for Bougainville is "non-negotiable". The peace process is not going to be easy...

The island of Bougainville (North Solomon Province), now devastated by the war and mining, was once the richest of Papua New Guinea's nineteen provinces. While the majority of the people of Bougainville reportedly want independence, others want Bougainville to become part of the independent nation state of Solomon Islands to which Bougainville traditionally has strong economic and cultural ties. It is not known how many Bougainvilleans want to remain part of PNG.

To further complicate the situation, PNG's prime minister has a friendly relationship with the Indonesian government, which in effect is colonizing the western part of New Guinea island, the Melanesian population of West Papua. Bill Skate supported former President Suharto and still has plans to discuss cooperation between the armed forces of the two countries. Indonesia is suppressing the peoples of West Papua and East Timor under a terrible regime. Indonesia has strong interests in holding on to Irian Jaya because of the Freeport

165

mine which the government has a share in and receives substantial income from. As a parallel to the situation of the Panguna mine in Bougainville, Freeport is causing major environmental destruction and displacement of the local people.

The phosphate mining of Nauru and Banaba island in **Kiribati** are other extreme examples of the magnitude of environmental destruction created by mining projects. Banaba, or Ocean Island, was exploited by the British Phosphate Corporation (BPC; owned by Britain, Australia and New Zealand) until independence in 1979. Banabans today live on the Fijian island of Rabi, which the BPC bought in 1942 for mining royalties in order to settle the Banabans somewhere out of the way of the mining project. Rabi's 4,500 inhabitants form an I-Kiribati enclave in Fiji with their own language, culture and social institutions. While the island of Banaba is to undergo a rehabilitation program funded by the three colonial powers involved in BPC, gold deposits have been found on Rabi. Will history repeat itself?

Agreements between multinational companies, first world countries and Pacific island nations regarding sea-bed mining are spreading. In September 1997, the Cook Islands signed a $430 million agreement regarding mining of cobalt, nickel and copper. Rich deposits have been found off the coast of PNG.

Artificially created borders from the partitioning up of the Pacific by the colonial powers have created problems for other nations than Bougainville. In 1997, Western Samoa changed its name to Samoa, or the Independent Nation State of Samoa. American Samoa did not take this lightly and threatened to reject peoples with 'Samoa' passport at the border. This was a major threat, since the majority of the population in American Samoa actually are from Samoa.

Backlash

With the strengthening of the indigenous peoples demands for respect for their human rights through international and regional cooperation and self-education in recent years, has followed a hostile reaction from the establishment. This is especially obvious in 'first world countries'.

While progressive groups outside the indigenous communities in fact support the indigenous struggle, significant persons and major groups of people feel threatened by the claims, and even use the indigenous peoples as scape goats for unsuccessful economic policies.

Within the *Maori* rights movement, some groups want a Maori Nation recognized by the international community. They are petitioning the United Nations for inclusion on the list of non-self-governing territories, but the New Zealand government is trying to control the self-determination that the indigenous peoples are striving for. The Crown defines self-determination as 'governance', or 'limited authority'. Some Maori accept this as the final *tino rangatiratanga,* sovereignty or self-determination, whereas others see it only as a first step towards self-determination, and a dangerous one as such, because the process is designed by the colonial government. The Maori comprise 15% of the unemployed, more than double of any other ethnic group.

The Waitangi Tribunal and the courts of **Aotearoa** continue to support Maori rights. But legislative implementation and funding of these rights is lacking along with public support. The Muriwhenua Land Report of 1997 recognized for the first time in recent history the Maori interpretation of early land transactions, but the government has not followed up on this.

This pattern and debate resembles the situation of *Kanaka Maoli* in **Ka Pae'aina** (Hawai'i). A range of groups, including some supported and basically funded by the state and federal governments, seek self-determination in various forms. The strong movement with its well-educated and articulate members has managed to create a markedly different discourse in the public, in the legislature as well as in the court rooms over the last twenty-five years. Unfortunately, public awareness and judicial acknowledgement of indigenous rights have also made the rights vulnerable to public attacks. An uproar in the establishment has been caused by a supreme court ruling of 1995 which affirmed native right to standing in a contested case regarding development of an area used for traditional and customary purposes. Affirmation of the standing also affirmed the ancient access and gathering rights which have been codified in law since 1850. The present laws of Hawai'i include the relevant section in the 1850 law in its original

form, almost word for word. Awareness in the public and business circles of the existence of these rights however has caused repeated attempts in recent legislative sessions to change the law and restrict the indigenous rights. It is, furthermore, probably one of the important reasons for suggesting a constitutional convention on the 1998 election ballot. State and federal legislative bills for creation of some kind of Hawaiian 'autonomy' abound. As with the New Zealand government, the US also has a narrow definition of self-determination as internal self-governance, as witnessed by the UN interventions at the latest meeting at the UN Intersessional Working Group on the Draft Declaration of the Rights of Indigenous Peoples in Geneva in 1997.

Micronesians and Samoans in Hawai'i have lately experienced various attempts to limit their rights. Recently the Hawai'i Housing Authority declared that the Islanders from the US Pacific possessions were 'aliens' and therefore not eligible for housing assistance. In an economy like Hawai'i's with skyrocketing land prices, homes are very expensive because of foreign investment and land speculation. A measure such as the one mentioned above, will effectively evict thousand of peoples from their homes.

Similar public sentiments and consistent backlash against indigenous rights are found in Australia, where the open racism of the white majority is a matter of serious concern with the coming elections and attempts with the Wik ten-point plan to revert and restrict the gains in recognition of native title affirmed by the Mabo case of 1992 (see article on Australia).

Nuclear and Military Colonialism

For more than fifty years the Pacific has been the "nuclear playground" of primarily France and the US, but also of the UK. Since 1975 the Pacific Islanders have presented a united front against the testing and dumping of waste and since 1985, through the Rarotonga Treaty, the South Pacific has been a declared Nuclear Free Zone. In April 1998, Richard Salvador of Belau, representing indigenous peoples, gave a speech to the Plenary of the 2nd Preparatory Committee of the Nuclear Proliferation Treaty in Geneva. The celebrated speech has been

widely broadcasted through electronic networks and we will quote from it here. Salvador said:

> "For a dozen millennia, the vast Pacific has been our home. As island peoples, we have lived in our mother's keeping and she in ours. But with the dawning of imperialism, our islands have been overrun by Europeans, by Americans and by Asians. The power and might of these colonial powers were crucial in exploiting and maintaining the Pacific as the nuclear arena, testing ground and dumpsite of nuclear materials (Salvador, speech at the NPT PrepCom, Geneva, April 1998)."

The initial strategic military importance of Pacific islands as coaling stations and harbours have now dwindled, but post-WWII nuclear colonialism has led to dispossession of peoples, to disease and to death of peoples as well as islands.

As witnessed by a nuclear free provision in **Belau**'s 1979 constitution as well as by the regional NGO Nuclear Free and Independent Pacific established with support of most indigenous governed nations and the independence movements, the Pacific Islanders are generally in strong and outspoken opposition to the nuclear testing, shipment, dumping and storage.

> "In my island nation of Belau, we determined to create a nuclear-free island nation. That seemed like a noble idea, but as soon as we began to set in motion the building of our nation, our UN Administering Authority made a mockery of our genuine practice of democracy. We conducted more than ten referenda to deny the American Pentagon's plans to strike down our nuclear-free Constitution. We soon found out that the promotion of democracy was a mere rhetorical ploy. We said 'NO' each time we had a referendum on the question of allowing nuclear weapons in our territory. Our first president was assassinated, and the results of each subsequent referendum were thrown out, the reason being that military imperatives took precedence over the democratic wishes and aspirations of a nation and people (ibid.)."

All aspects of the nuclear cycle involves indigenous peoples' land (seventy percent of the plutonium resources of the world is estimated to be

located on indigenous land): from infrastructure needed for mining and testing facilities and the actual mining of uranium to testing of nuclear weapons, and dumping, storage and transport of plutonium and nuclear wastes. According to Salvador, indigenous peoples believe that uranium should be left in the hands of Mother Earth, because "no other force is capable of containing the toxic menace of radioactivity" (ibid.).

The basic understanding in the Pacific indigenous communities of the seriousness of the situation is the reason for massive regional support of the protests by the traditional land owners of Jabiluka, the Mirrar people, against a proposed uranium mine on their lands located in the Kakadu region of Northern Territory of Australia.

Quoting the 1997 Moorea Declaration by Abolition 2000, "colonized and indigenous people have [...] borne the brunt of this nuclear devastation". Salvador concludes that indigenous peoples are victims of the nuclear age, but that they

> "[ ]seek to transcend mere victimization in demanding and calling for a final cessation to these genocidal acts of nuclear colonialism. [...] Genuine peace can only begin to emerge when the nations of the world start to dismantle military and nuclear installations now dominating the entire Pacific from Guam to Hawaii to French Polynesia (ibid.)."

Nuclear tests have now stopped in the Pacific, but dumping and storage of nuclear and other toxic waste on already polluted atolls are seriously discussed by Pacific leaders (see below). Furthermore, in spite of the declaration of the South Pacific Nuclear Free Zone, shipment of nuclear materials through the Pacific continues, such as the journey of *Pacific Teal* from France to Japan carrying plutonium and high-level radioactive waste.

The serious consequences of the testing and work with nuclear materials has only gradually been made known to the world and are still being denied by the French authorities. Only recently has reliable information been publicized on the situation in **French Polynesia** on the basis of thorough investigations of the consequences of nuclear testing. In cooperation with various churches and European support

organizations, Hititau ("Time to Act", a network of NGO's of the Maohi nation) in 1996 performed a sociological inquiry into the consequences of nuclear testing on the lives and health of the Maohi people of French-occupied Polynesia. 737 workers of ten to fifteen thousand who had been working for the Centre D'Expérimentations du Pacifique (CEP) were interviewed. The study is documented in the comprehensive report *'Moruroa and us - Polynesians' Experiences during Thirty Years of Nuclear Testing in the French Pacific'* (Pieter de Vries & Han Sur (eds) Centre de Documentation et de Recherche sur la Paix et le Conflits. Lyons 1997; see *Indigenous Affairs* 1997:3/4).

This is a very important study because the French authorities have destroyed or prohibited access to health records and continue to issue deliberately misleading and partial information which distorts the picture of the test consequences. As recently as June 1998, the International Atomic Energy Agency reported that nuclear testing in Moruroa in 1995-96 had not caused any health or environmental problems... Hititau is also developing alternative economic avenues to the 'get away' image of conventional tourism.

Likewise, the islands of the former Micronesian Trust Territories have been and are being used for military strategic purposes and military testing. They are heavily dependent on the United States and are struggling with diminishing compact payments.

The **Marshall Islands** has under the Compact of Free Association with the United States been allotted almost five hundred million dollars in damage compensation, medical programs and environmental monitoring, thereby settling future claims and denying the Marshallese the privilege of a court procedure. But since the agreement was made it has been discovered that nuclear fall-out from the 67 tests affects many more islands than first anticipated and covered by the compact agreement of the early 1980s, which settled all future claims and denied Marshallese options of US court process.

The proposal by the Marshall Islands' government to store "low-level nuclear waste" in the islands reflects the republic's desperate economy. It has been met with vehement opposition from the people, the nuclear victims. After overwhelming popular opposition, prime minister Imata Kabua declared a 'freeze' on the plans, but in Septem-

ber 1997, a secret agreement between the government and the US B & W Nuclear Environmental Services for exploring the possibilities of storage of nuclear waste on Wotho Atoll was disclosed.

While the government are planning for storing nuclear waste, the leaders of Rongelap, whose island has been uninhabited since 1985 after evacuation for fear of continued radiation from the 1954 Bravo hydrogen bomb's fallout, are planning to rehabilitate their island, so they can return home. The people of Bikini also want to go home. The Bikinians were evacuated prior to the nuclear tests in 1946 and again in 1978 after returning in the 1960s to a supposedly safe island. The US has now agreed to provide funds for cleaning up Rongelap as well as Bikini and Eneu, the two main islands in the Bikini Atoll. The clean-up program was initiated in February 1997, when eighty Bikinians returned home for the first time in over fifty years to commemorate 'Bikini Day'.

Supported by the World Bank, a consortium of Norwegian, Russian and Ukrainian companies, Sea Launch Ltd., plans to launch commercial satellites from an old Norwegian oil platform placed in international waters near **Kiribati**. Sea Launch of April 1997 is 40% owned by Boeing, 25% by a Russian, 20% by a Norwegian and 15% by a Ukrainian company. The fewer than 200 commercial satellites in orbit are expected to expand to a thousand by the year 2000, so this is big business - especially considering that the launches are in the order of fifty million dollars a piece...

While Kiribati is trying to develop **Kiritimati** (Christmas Island) as a spaceport, the US missile tracking station and impact zone in the Kwajalein Missile Range for ballistic missiles shot off from Vandenberg in California is going commercial and also offers launching facilities to shoot satellites into space, aside from possibilities for "operational and developmental testing of theatre missiles interceptors" etc. Japan follows the example of the US. Japan's National Space Development Agency is buying into the Pacific for satellite tracking and landing of rockets by Christmas Island in the eastern Kiribati. The multi-billion project includes a 200-room hotel and support facilities.

The US Army claims that it needs another ten years to incinerate the remaining stockpile of chemical weapons and nerve and mustard

172

gasses stored on Kalama Island (Johnston Atoll). A South Pacific Forum Communiqué from the September 1997 meeting called for a permanent closure of the Johnston Atoll Chemical Agent Disposal System (JACADS) when the current program of chemical weapons and agent destruction is completed. And the US Senate has banned further transport of chemical weapons to Kalama. The original permit was issued in 1985 for ten years beginning in 1990.

The environmental challenges in the Pacific today are enormous as a consequence of economic globalization and militarization. To hazardous waste dumping, chemical burn-offs, nuclear shipments, bio-piracy, nuclear testing, add infrastructure development, mono-cropping, mining, dam building, logging, and establishment of grazing areas and agroforestry. There is degradation and taking of lands for development of tourist resorts, malls, golf-courses and condominiums. The ocean is over-exploited from deep sea mining and over-fishing with long-liners and deep sea boats, often belonging to foreign companies who have leased the fishing rights from the people who cannot afford the equipment themselves. Even nations which are trying to keep control over the fisheries have difficulty enforcing the regulations for others to either stay away or pay. A small nation state like **Tuvalu**, simply neither has the resources to patrol their extensive waters in the Exclusive Economic Zone nor the power to expel violators like the US. There has recently been a round up there of fishermen breaking the international moratorium on driftnet fishing in the North Pacific.

The issue of climate change is especially important to small island states - as a consequence of logging, but also as a consequence of global warming. It is a real impact already threatening the very survival and existence of the islanders. Will their children and grandchildren have a place to stay? At the Third Session of the Parties to the UN Framework Convention on Climate Change in Kyoto in Japan in December 1997, Pacific representatives made it clear that their islands already suffer from the result of climate change: increased frequency of cyclones, tornadoes, flooding, and tide surges. In 1997 alone, Tuvalu for instance was hit by three devastating cyclones. The costs hereof increase the dependency on foreign aid. Also Guam and Tahiti have

been badly hit by natural catastrophes. The representative of FSM said in a statement:

> "The Preamble to the Constitution of the Federated States of Micronesia states that the oceans do not separate us, rather, they bind us together. That statement applies not only to islanders but to the world as a whole. It has particular relevance to our common objective of protecting the global climate. We are all islanders, bonded together by the seas. [...] As I stand here today, the nations of the world luxuriate in a mixed scientific and intellectual debate over climatic change, which sounds all-too-much like the never-ending North-South economic discussion [...] but from the viewpoint of ourselves in Micronesia [...] we must deal with the challenge of global climate change in a much more urgent sense, that is, in terms of our cultural and geographic mortality."

On behalf of AOSIS, the Samoan representative at the same meeting stressed that sea-level rise poses the most profound danger for small island countries, eroding already scarce land territory, threatening the reefs and invading the ground water resources. The Nauru representatives who had come at great expense for their little nation criticized the reluctance to agree on significant reductions in the emission of greenhouse gasses: "We are running out of time." The result of the conference was that in the end, the industrialized nations committed to a reduction that adds up to less than twenty percent of what the 35 AOSIS nations had been promoting.

The practice of producing and storing hazardous waste in poor communities is today called "environmental racism".

Globalization and Economic Dependency

The peoples and resources of the Pacific are further threatened by the new and intensified forms of colonialism and exploitation through globalization. Many Pacific Island nation states today are multiethnic societies which are part of a global economy controlled by international trade networks and transnational corporations. Economic initiatives seem to be locked into the well established tourism-development paradigm with very little room for visions and alternatives.

The suggested Multilateral Agreement on Investment is scaring even World Bank economists and if it comes true, it will remove all impediments to the free flow of money. This will become "the biggest typhoon that ever hit the Pacific". In the first round, however, international opposition from "a global band of grassroots organizations" conveyed via the Internet killed the proposal. This is probably the first time in history something like this has happened. Trade agreements and other international agreements are still in force and must be monitored carefully by the indigenous peoples.

Aid is still a significant factor in Pacific economies. The involvement of the former colonial powers in the contemporary peace process in Bougainville could lead down the well known path of control via dependency if the involved nation states and international organizations do not step back from controlling positions. Aid continues the exploitation and control over not only land and ocean resources, but also over how Pacific Islanders govern themselves and shape cultural, social and economic development. It not only reinforces the material dependency but also strengthens the psychological dependency. This is the exact opposite of self-determination, according to international standards.

Pacific Island nations and peoples are facing deep economic crises. Attempts are made to alleviate them through the western economic framework of privatization of land and water, tourism (which in spite of the discouraging examples of Hawai'i, Guam and FSM continues to be a focus for hopes), land registration, ship registration, duty free shipping, tax havens, and even animal quarantine stations.

Major factors in the economies are - besides the former colonial powers and new 'trade partners' of US, Australia, New Zealand and UK, respectively Japan, Taiwan, Korea and China - the development banks, which impose specific political and economic agendas on the receiving peoples.

Urbanization creates serious problems with loss of livelihood, self-sufficiency and self-confidence, contributing to a growth of violence and use of alcohol and drugs.

Countries such as especially the Polynesian island nations are characterized by an extremely high rate of migration which has created

global families and an economy based on remittances. The economy and traditional life style at home become dependent on foreign aid and remittances.

Indigenous Networking and Policies

Many peoples of the Pacific are in situations which force them to continuously struggle for basic human rights such as rights of self-determination, rights to control over the land, ocean and other resources and the rights to determine their political, economic, social and cultural integrity and development.

Islanders are identifying with sub-regional Melanesian, Polynesian and Micronesian concepts, at the same time as Pacific solidarity increasingly is becoming a focus for identity, created and maintained in opposition to (neo)colonial powers. This regional awareness, supported by voyaging traditions and modern means of communication, electronically as well as physically, makes it clear that Oceania is indeed bonded by the sea.

In September 1997 delegates from 18 Pacific Islands peoples and nations established the Indigenous Rights Working Group (IRWG) under the regional NGO umbrella organization, PIANGO. IRWG works with PIANGO as well as PCRC/NFIP and other Pacific NGOs to inform, educate and enhance awareness of Indigenous peoples' rights. PIANGO was formed in 1990 in Pago Pago, Samoa, to facilitate communication, provide a common voice at regional and international fora and to develop Pacific identities, unify cultures and social action to improve the well-being of the island communities.

Regional and international indigenous cooperation are breaking down the colonial mind set through a strategy for decolonization, beginning with education, use of native languages and increased importance attached to sustainable living - for which the Pacific Islanders have models readily at hand. In these community rebuilding processes, land bases are crucial for sustaining a living. Struggles for land are therefore paramount in the Pacific movements for indigenous rights today.

'Self-determination and decolonization are seen as the most basic rights of indigenous peoples, preconditioning the fulfillment of all their other human rights (see article by Trask in *Indigenous Affairs* 98:1). Without self-determination, the environmental degradation and exploitation of land and peoples will not stop, and the Pacific Islanders will not be able to protect their environment and culture for their own good as well as for the future of mankind, as Kanaka Maoli sovereignty leader Kawaipuna Prejean said at the UN Human Rights Commission meeting in 1991. To again quote Richard Salvador:

> "We wish to assert our right to preserve the nature of our relations with the earth, as we have for generations as Indigenous peoples. The fate of the earth rests on the proper care of the lands and waters, not by threatening to destroy the earth and its inhabitants in order to maintain dominance and hegemony. The wisdom of Indigenous peoples' relationship to the earth is the reciprocal obligation to care for the land, as it will in turn care for us. The voices of Native peoples, much popularized in these frightening times, speak a different language than old world nationalism. Our claims to uniqueness, to cultural integrity, should not be misidentified. We are stewards not of weapons stockpiles but of the earth, our mother, and we offer an ancient, umbilical wisdom about how to protect and ensure her life. [Our lands are] not the dumpsite of the world. [...] We will return to our homes to press for an end to the trans-shipment, storage and dumping of nuclear wastes in the Pacific, the clean up and ongoing monitoring of contaminated areas and support for test site workers affected by nuclear testing."

Sources:

Communications from the United Nations, Disarmament and Decolonization Organs Servicing Branch and other UN bodies. Resolutions, communiqués and statements from international and regional meetings and organizations; journals and newsletters such as the *Pacific News Bulletin* published by the Pacific Concerns Resource Centre, *Contemporary Pacific*, *Indigenous Affairs*, numerous websites and e-mail messages and discussion list, including 'Pacific Islands Reports'. Personal communication.

West Papua

West Papua has been experiencing the worst drought "in living memory" since September 1997. This has caused malnutrition, famine and an explosion in malaria. Tuberculosis is widespread. The death toll from famine and waterborne diseases had amounted to over 140 by September 20, rising to over 275 a week later and a staggering 413 by the 7th of October, according to newspaper reports. In the meantime, numbers may have reached the thousands. Fires in nearby areas were said to be hampering flights with relief supplies to the isolated starving villages. On September 26, the Jakarta Post reported that 80,000 hectares had been affected by fires, including part of the Lorentz National Park. Antara News Agency reported that the fires had swept into neighbouring Papua New Guinea, destroying a border camp inhabited by 600 West Papuan political refugees.

In the drought affected areas, people have no food and nothing to grow food from next year. Frost has compounded the drought in higher altitude areas, but it has also destroyed the staple crop of cassava. According to the charity World Vision, an estimated 200,000 people are being affected by the shortages and the situation will get worse over the next two months as the crop failures take their toll. The International Red Cross has tried to help from October last year, but has since February this year been denied access to areas in need. There is a glaring discrepancy between the emergency help in the eastern and western parts of New Guinea Island! Lately, Australia has decided to spend a large amount of money on aid distributed by their Defence Force in collaboration with ABRI, the Indonesian armed forces, which are the main human rights violators in West Papua. Stories of their torturing and murders abound. And they work closely together with the mining administration.

It is suspected that the unwillingness of the Indonesian government to help the drought ridden people is a deliberate policy. The Indonesian government owns ten percent of the Freeport mine (not to mention taxes and other benefits - estimated at $US480 mio. in 1998) - the world's largest gold mine and third largest copper mine owned mostly by the US company Freeport McMoran. The Australian

RioTinto, well known from the Panguna mine in Bougainville, is also a shareholder of the mine. Some of the people hit hardest by the drought are the Amungme who live in the mining area and have been protesting the mine's operations and environmental destruction for decades. The mine is in the process of expanding its production (a planned 60 percent expansion). The military is already in place, and expanding as well, paid for by Freeport. 350 families are expected to be 'displaced'. Huge amounts of 'tailings' (waste material from mining operations) are already being dumped into the river system. Ok Tedi mine had to pay the indigenous people living downstream from their dumpings in the Fly River system 150 million dollars in compensation for the destruction and for clean up costs after a law suit ending in 1996. They 'only' dumped 80,000 tonnes tailings *per day*. Freeport dumps (before expansion) 200,000 tonnes in the Ajkwa river system per day.

West Papua is recognized by the indigenous peoples of the Pacific in their various organizations as colonized and should be reinscribed on the UN list of non-self-governing territories. West Papua officially became part of Indonesia in 1969 after a mockery of a UN Process of decolonization, including an "act of free choice" where the required referendum was replaced by a vote of 1022 representatives for the 720,000 Papuans for inclusion in Indonesia. The protest of the Papuans gave the Indonesian army a good excuse for cracking down on the indigenous population. Dislocation, transmigration, torture, rape, etc. have been taking place ever since, but the OPM (Organisasi Papua Merdeka - Free Papua Movement) is still fighting for self-determination and independence for their Melanesian peoples.

There are indications that the famine in the highlands is not entirely due to the drought. It may be a man-made disaster too, linked to the high number of troops in the region. Since members of the West Papuan guerrilla army, or OPM, took European scientists hostage early 1996, the highlands have been crawling with Indonesian troops. They have been requisitioning food and preventing villagers suspected of siding

with the OPM, from tending their gardens, and so denying them their means of growing food.
A recently conducted fact finding mission by the Christian Missionary Association (GKII) Mimika Region, the Catholic Church Paroki Tiga Raja Timika and the Christian Evangelical Churches in Irian Jaya (GKI) Klasis Mimika has again brought to light the close interconnection between the Indonesian government's mining interests, militarization and the continued human rights violations against the people of West Papua. Part of the report on the fact finding mission is printed below.

From the end of the hostage rescue drama in the hamlet of Nggeselema in the Central Highlands of Irian Jaya on May 15, 1996 until now, there have been disturbing reports about abuses experienced by civilian occupants of Jila, Bela, Alama, Nggeselema, Jigi, Mugi, Mapnduma and other hamlets in connection with the presence of troops from the Armed Forces of Indonesia (ABRI) to crush the OPM as well as to protect the 'vital national project' of PT Freeport Indonesia.

That presence was marked by the number of military posts built from the time the hostage crisis broke out in January 1996 until the sentative council of the Amungme people known as LEMASA (Lembaga Musyawarah Adat Suku Amungme).

From Bela and Alama, located some 150 kilometers to the east of Tembagapura, officials and members of the GKII report that between December 1996 and October 1997, sixteen people became victims of human rights violations during military operations. Thirteen of the victims were from Bela and Alama, two were from Jila and the others were from Mapnduma. Eleven of the victims were shot and killed; two 'disappeared'; and three sustained injuries. In the same military operations, in which military forces were not only tasked with crushing the Free Papua Movement (Organisasi Papua Merdeka or OPM) but with securing the 'vital project' of PT Freeport Indonesia Inc. (PTFI), the troop burned 13 church buildings in 13 different hamlets, 166 homes, and 29 rumah bujang or 'men's houses', a traditional structure.

The human rights violations occurred after an operation to free a group of researchers from the World Wildlife Fund (Team Lorentz '95) who were taken hostage by a group of OPM led by Kelly Kwalik and Daniel Yudak Kogoya. The operation, led by units of the army special forces (Kopassus); Infantry Battalion 753 from Paniai; Infantry Battalion 752 from Sorong; and Infantry Battalion 751 from Jayapura, resulted in the flight of people living in the Bela and Alama valley. They fled out of fear to caves and to the forests surrounding Bela and Alama, as well as Ilaga. They felt they had to flee to protect themselves because in the course of the military operation, the troops had shot both people and their animals (pigs, chickens, and dogs), burned their homes, and burned the churches of the GKII.

In the course of this operation, a man was shot in Wajitagala in December 1996; another in March 1997 on the banks of the river Mokogom; and another in April 1997 on the banks of the river Tomogong. Six people were shot dead in May 1997, and another was killed in Mapnduma in October 1997. With respect to the bodies of these victims, six were simply covered with leaves and later found by their families and buried, while four others were buried by the military. In addition to these shooting victims, two civilians were declared missing, and two others were wounded.

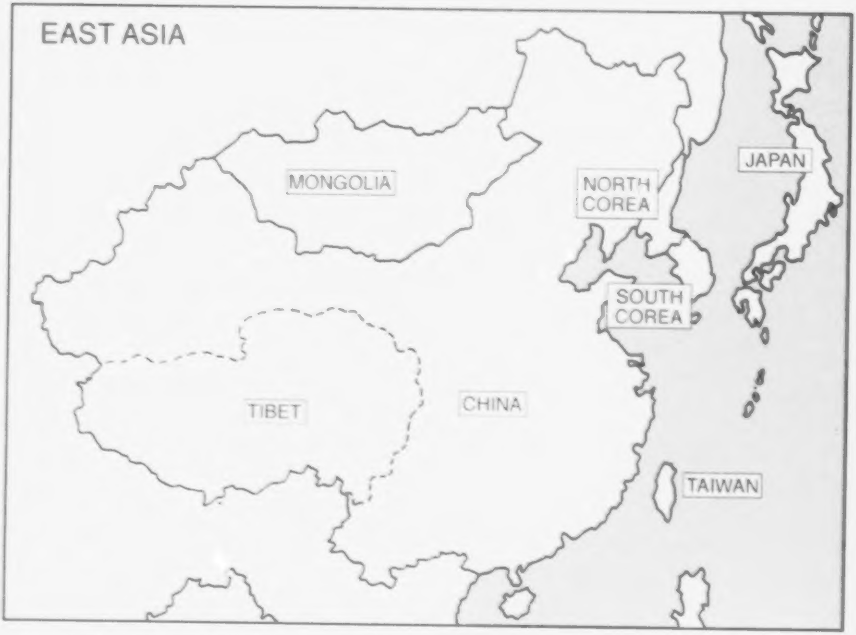
The people who were shot were civilians returning to their gardens near their hamlets to gather food, such as yams and corn, since they had run out of food in the places where they had sought refuge. The lack of food had made them weak and vulnerable to disease, with the result that 15 people died while displaced. The physical weakness of this population was still visible after they had left their hiding places and returned home. Eighteen more people died of illness after returning around December 1997.

Local people whom army troops managed to gather in hamlets were tightly guarded. No matter where they went, they had to obtain a travel permit signed by security officials, making it difficult for them to go to their gardens or hunt.

The rate of death has tended to rise over the last three months. Between January and March 1998, 28 people died in three hamlets, Tagalarema (19); Ningimtagalao (6); and Onimogom (3). The total

number of those who died in five other hamlets in Bela and four in Alama is not known. The last report received from Bela in April 1988 stated that 65 others had died. The deaths of those who died during and after their flight were caused by general weakness as a result of insufficient food and hunger linked to the military operations in the hamlets of Bela, Alama, and Jila.

The Indonesian armed forces also burned thirteen buildings, including eight churches in Bela and five in Alama, while of the 166 homes burned, 66 were in Bela and 100 were in Alama. Of the 29 men's houses destroyed, 17 were in Bela and 12 in Alama. Also destroyed by the military were one traditional house, two health clinics (puskesmas) and one SSB (single side band) radio.



Countries covered in this issue: China

EAST ASIA

CHINA

Overview

1997 was a year of great events for China. The two most important ones were of course the death of Deng Xiaoping in February and the return of Hong Kong to China on July 1. These two events, each in their own way, influenced the relation between the majority Han Chinese and the non-Chinese nationalities.

The death of Deng brought the age of terrorist bombings to the Chinese capital. On February 25, the day when the funeral rites for Deng took place in Beijing, bombs went off within minutes of each other in three buses in Ürümqi, the capital city of the Uighur Autonomous Region of Xinjiang. According to news dispatches, the attack killed nine people and wounded 74. Then, on March 7, a bomb went off in a bus in the Xidan shopping district in Beijing during rush hour. Unofficial sources say that at least two persons were killed and about 30 wounded. Uighurs in exile in neighbouring Kazakhstan claimed responsibility for both attacks, but attention was also directed towards resistance groups in the Hotan-Kashgar region in Southern Xinjiang who have good contacts with Islamistic movements in Afghanistan and Pakistan.

These events came shortly after the biggest exploding device ever blew up in front of one of the main government offices in the centre of Lhasa early in the morning of December 25, 1996. Nobody is said to have been hurt, but the explosion caused great material damage. The exiled Tibetan government in Dharamsala disclaimed responsibility for the act, and it was speculated that perhaps the Chinese authorities themselves had staged the event, but it is more likely that it was an example of the new and more militant forms of resistance from younger and more impatient Tibetans. The date of the bombing was most likely not a coincidence: it seems to have been a rather special way of marking the anniversary of Mao Zedong's birth.

The return of Hong Kong was accompanied by a strong wave of patriotic sentiments among the Han Chinese. For once, the official propaganda seems to have been received well among the people, as this writer could observe by first-hand observation. The unanimous opinion among the elderly seemed to be that China should never again let itself be bullied by imperialism. The mood among the younger part of the population, however, was more diversified, from outright joy and pride to resignation over the fact that the Hong Kong event would most likely not change their life situation, perhaps even make it look more grim.

However, the return of Hong Kong probably also led to a heightened awareness about the vulnerability of the Chinese border regions, as seen from Beijing. The rhetoric of the CCP has swung markedly towards appeals for 'patriotism' (the term 'nationalism' is still regarded as a bourgeois term, but the term patriotism does the job well). That means that those in the vast border regions who may want to air discontent about the Chinese dominance over their homelands are more likely than before to be branded as 'separatists'. This is likely to feed into an increasing spiral of discontent, as events in Xinjiang in 1997 (see below) clearly illustrate.

In connection with the return of Hong Kong to China, the propaganda-department of the Central Committee of the Chinese communist party announced in the middle of June 1997 that one hundred geographical sites throughout China had been selected for so-called patriotic education. The purpose was primarily, according to the *People's Daily* of June 11, to teach the youth of China to "hold high the banner of patriotism". (One hundred patriotic films and one hundred patriotic books were also selected). Whereas a number of the sites in the Han-dominated regions were historical sites (like the alleged grave of the Yellow Emperor, who is actually a rather late Taoist-inspired culture hero), the only site in the major ethnic regions that has connotations to earlier history was the museum in the Hui Autonomous Region of Ningxia. All the other sites in the major ethnic regions were either related to the history of the communist party or to events in the twentieth century. For example, in Tibet, one would think that the Potala palace would have the same significance as the Imperial palace in

Beijing and thus be marked as an example of the 'contributions' (a term usually used in contexts like this) of the indigenous Tibetans to the alleged Chinese heritage, but the Potala is not on the list. The sites selected for Tibet is rather a mausoleum for revolutionary martyrs and a memorial site of the defeat of the Tibetan army by a British-Indian expeditionary force in 1904. The message of present-day Chinese patriotism is thus clearly illustrated: put stress on the events that concern the nation as a whole and particularly so the events in the Han Chinese regions, and play down the local or regional identities.

Xinjiang

The worst ethnic unrest in many years broke out in the city of Yining (Khulje) in the Yili prefecture about 70 km from the border to Kazakhstan. As always, the reports from such events are partly contradictory and vary greatly in terms of assessment of scope, so the information provided below should be taken as highly provisional.

According to Chinese sources, the unrest started on February 5, when local Uighurs protested against the attempt by the police to arrest a young Uighur, Abdul Halil, aged 29, who had earlier taken part in demonstrations. But there had already for some time been attempts by the police to round up militant supporters of the Muslim sect called Talips (cf. Taliban in Afghanistan), whose missionaries had come from the Hotan area in Southern Xinjiang. The members of the Talips refuse to cooperate with the government, and a number of them are said to have resigned from their government jobs. Some even refuse to go to the mosque, as they dislike the fact that the imams are appointed and paid by the government. Other sources claim that 30 young Uighurs had been executed on January 31, 1997, as a part of the so-called 'strike hard' campaign, which the Chinese government initiated in 1996 as a measure against the steadily eroding social order in China. (The last officially reported executions in Xinjiang before the Yining unrest took place in Ürümqi on January 30, 1997, when 16 men, among them an Uighur accused of terrorist activities, were executed).

Back in Yining, after having fasted through the night of February 4, which this year was a special day in the Ramadan month, a group of

Talips marched through the streets on February 5. They were joined by a crowd, and the local police were completely taken by surprise. When the police finally acted, they forced the demonstration towards a park, where they were rounded up, beaten and in some cases killed, according to some sources. More rioting spread immediately, and a strong popular outrage erupted the next day, when thousands of townspeople burnt cars, smashed stores and killed Han Chinese. Estimates of how many were killed vary greatly, from 10 to 300, as well as the assessment of how many of them were Chinese and how many of them were Uighurs and other indigenous persons. Unofficial sources assess the number of detained people to over one thousand.

The retaliation from the Chinese authorities was swift and merciless. Some reports say that about one hundred Uighurs were executed between February 6 and 12, but the numbers are impossible to verify. The first open trials started just before the Kurban festival, about seven weeks after the incident, but these were quickly cancelled, because the prisoners used their nail-less hands to testify about the treatment they had been given. A series of public trials were held at the city stadium from April 24 and onwards. In the first round, 30 prisoners were paraded in front of the public. Three of them, who were considered to have been the instigators of the demonstrations, were given death sentences and executed the same day. The only woman among the thirty, a 21 year old, was given a sentence of 14 years for having taken part in the February 5 demonstrations and for having advocated that Uighurs should not follow the official birth control policies of the government.

How many were imprisoned and executed is very hard to estimate, but the campaign went on all through the summer of 1997. In May, a so-called hundred days cleaning-up campaign was launched. Already on April 13, Qiao Shi, the then president of the National People's Congress and a man with lifelong connections to the internal security services, made a sudden appearance in Ürümqi, where he stated: "We must firmly oppose national separatism and religious extremist forces and safeguard the dignity of laws and the fundamental interests of the people of various ethnic groups". Eight Uighurs are reported to have been executed on May 30, and another nine on July 22.

But the wrath of the Uighurs is not just directed against the Han Chinese. One night in late June, six people were knifed to death in different places around Yining in a well-coordinated action, four of them being Uighur policemen.

The spiral of violence and repression is steadily being escalated in Xinjiang. On March 13, Mukhiddin Mukhlisi, spokesman of the United National Revolutionary Front of East Turkestan, announced at a press conference in Almaty, the capital of Kazakhstan, that a bomb had been exploded in an arms factory between Ürümqi and Kashgar on March 10. On May 29, eight persons were executed in Ürümqi, the regional capital, for the bomb attacks mentioned in the in Overview part of this article.

It seems that the Chinese political leadership regard Xinjiang as a much more volatile and difficult region to control than both Tibet and Inner Mongolia, where they are able to keep tighter reins. Xinjiang has for a long time been plagued by a Northern Ireland-type of conflict. It will however be infinitely more difficult to find an acceptable settlement to the Xinjiang tangle, because of the complex regional and ethnic issues involved.

Inner Mongolia

As mentioned in the last year's edition of The Indigenous World, the Mongolian Hada, 42 years old, was sentenced to 15 years of imprisonment in December 1996. Hada is a native of the Khorchin Right Wing Front Banner of Inner Mongolia (the term 'banner' refers to a traditional Mongol socio-political organization, but is today used to denote administrative entities on the county level). Hada had been a member of an underground Mongol organization whose aim was to preserve the religious and cultural heritage of the Mongols. The Chinese colonization of Inner Mongolia has much earlier historical origins than in the case of Tibet and even Xinjiang. As of today, Mongolians comprise only a small minority of the population of The Autonomous Region of Inner Mongolia, and many young urban Mongols no longer speak Mongolian, but Chinese.

In May 1992, Hada and others founded the Southern Mongolian Democracy Alliance (SMDA), an organization of which he served as the chairman. Towards the end of 1995, the SMDA staged a series of demonstrations in Hohhot demanding rights that are guaranteed by the Chinese Constitution but which have not been honoured. In December 1995, Hada was arrested, his bookstore, Mongolian Academic Bookstore, was closed down and its inventory confiscated.

Also sentenced in December 1996 was Tegexi, a 30 year old Mongol from the Khorchin Left Wing Rear Banner, who was sentenced to ten years of imprisonment, allegedly for trying to split the country. Tegexi had earlier been employed by the Inner Mongolian Bureau of Foreign Affairs.

Both Tegexi and Hada were held in solitary confinement for a full year after their arrest. Eight others who were also detained in December 1995 and accused of 'nationalist separatist activities', were subsequently released. Both Hada and Tegexi appealed their sentences, but the appeals were rejected on January 24, 1997, and their sentences upheld. Amnesty International considers both Hada and Tegexi as prisoners of conscience.

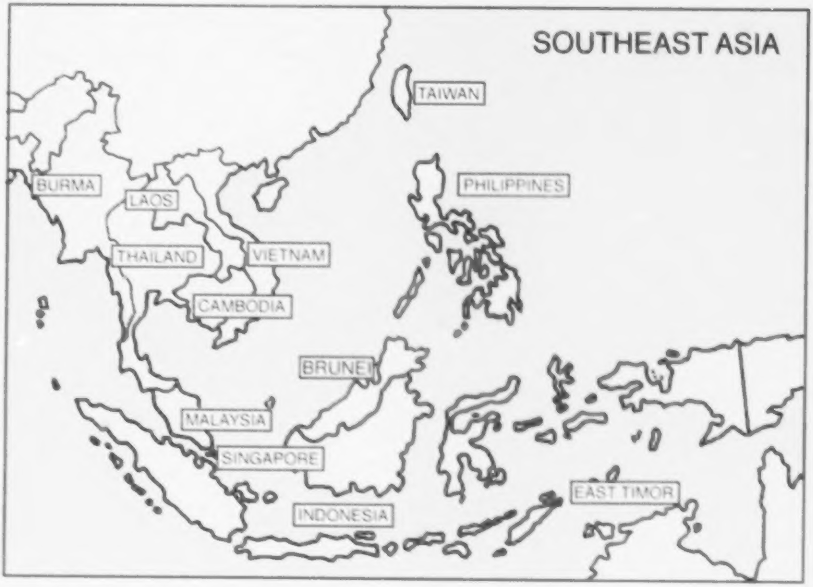
Several well-known Western historians and social scientists are involved in the study of the recent history of Inner Mongolia. This is especially the case of the period of the Cultural Revolution, when the Mongolians suffered perhaps more than any other minority people in China.

Final Remarks

The increasing interest in indigenous rights was illustrated by the annual conference of the Association of Asian Studies in Washington D.C. in April 1998. The president of the AAS, Jim Scott, organized a Presidential Roundtable entitled simply 'Indigenous Rights'. The participants of the roundtable were Uradyn Bulag, Dru Gladney, Richard Kagan, La Raw Maran, and Lobsang Sangay. See http://www.aasianst.org/98Hghlts.htm

When mentioning web-addresses, we may note that the amount of information available on the web concerning the major indigenous

groups of China is increasing rapidly. This will quickly be realized by anyone who conducts a search based on terms like 'Xinjiang', 'East Turkestan', 'Inner Mongolia' or 'Southern Mongolia'. The last term is - understandably - the preferred one by Mongolian dissidents. However, as everybody has experienced, the information on the web is of very uneven quality, and the same caution should be applied when sifting information about these vital issues.



Countries/Regions covered in this issue: Philippines, East Timor, Indonesia, Malaysia, Thailand, Laos, Cambodia, Nagaland

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SOUTHEAST ASIA

PHILIPPINES

Indigenous Peoples Rights Act Passed

After more than a decade of legislative lobbying, the Philippine government finally enacted a legislation that accommodates and tries to address the indigenous peoples' concerns with Republic Act (RA) 8371, otherwise known as the Indigenous Peoples Rights Act (IPRA) of 1997. President Fidel Ramos incorporated it in his administration's poverty alleviation program within the Social Reform Agenda. By far this is the law that would deal principally with the concerns and demands of indigenous peoples. However, both the various indigenous peoples' organizations and advocates are well aware of its limitations and dangers, just as there are opportunities and potentials within the context of the present political and economic milieu. How this law will fare from hereon is indicative of its strengths and weaknesses, as well as the continuing efforts of the indigenous peoples and their supporters toward genuine self-determination.

The Constitutional Basis

RA 8371, or the Indigenous Peoples Rights Act, was signed in 29 October 1997 and took effect a month later, 22 November 1997. The law is the legislature's interpretation of the constitutional provisions governing indigenous peoples' rights. IPRA of 1997 implements these provisions by enumerating the civil and political rights of the indigenous peoples, as well as their social and cultural rights, and by recognizing the indigenous peoples' property rights. It provides for the creation of the office of the National Commission on Indigenous Peoples (NCIP) as implementing agency.

192

Indigenous Peoples' Rights as Defined in the Law

Provisions on *civil and political rights* are found in Chapter 4: Right to Self-Governance and Empowerment, and Chapter 5: Social Justice and Human Rights of the law.

Chapter 4, Sections 13 to 20 provide for the indigenous peoples' right to self-governance, self-determination and empowerment. This includes the indigenous peoples' right to use their justice systems, conflict resolution institutions, peace-building processes, and other customary laws and practices as may be compatible with the national legal system and internationally recognized human rights. The right to participate in decision-making at all levels is specified in Section 16.

What may be foremost in IPRA of 1997 is found in Chapter 5, Section 21 where it provides for equal protection and non-discrimination of indigenous cultural communities or indigenous peoples. Equal opportunity is specified in the areas of employment and delivery of basic services. This goes further by recognizing the rights of indigenous women. Sections 27 & 28 recognize the rights of children and youth and require that the educational system be relevant to the needs of indigenous children and young people.

Social and cultural rights are enumerated in Chapter 6: Cultural Integrity. Here the law defines the state policy on indigenous culture. It states in Section 29: "The State shall respect, recognize and protect the right of ICCs/IPs to preserve and protect their culture, traditions and institutions. It shall consider these rights in the formulation and application of national plans and policies."

Included in this chapter are the following: recognition of cultural diversity; equal access to cultural opportunities in education; community intellectual rights; rights to religious, cultural sites and ceremonies that also specifies the right to repatriate human remains; right to indigenous knowledge systems and practices and to develop their own sciences and technologies; protection of the right to their biological and genetic resources; right to a sustainable agro-technological development; and, protection and preservation of archaeological and historical sites within ancestral domains that also provides for the right to

receive from the national government all funds earmarked for this purpose.

Property Rights: IPRA emphasizes the communal nature of property right. Chapter 3 of the law describes this indigenous concept of right. Here, the tenurial rights of ancestral domains and ancestral lands (two separate categories) are indicated.

The right to ancestral domains is defined as a form of ownership. Thus, ancestral domain holders may claim ownership over the resources within the territory, develop land and natural resources, stay in the territory, have rights against involuntary displacement and in case of displacement, the right to return to the same territory, may regulate entry of migrants, have rights to safe and clean air and water, right to claim parts of reservations except those reserved for common and public welfare and service, and may use customary laws to resolve their conflicts.

The right to ancestral lands, on the other hand, include redemption of land/property rights acquired by non-indigenous peoples through a vitiated consent or an unconscionable price within a period not exceeding 15 years from date of transfer, and the right to transfer the property to/among members of the same indigenous peoples' community.

Another form of right to ownership is the recognition of ancestral lands that have been held for not less than thirty years prior to the effectivity of RA 8371. This expands the definition of ancestral lands that is not just held since time immemorial. Given this situation, the law provides the option for indigenous peoples to secure a Certificate of Title under Commonwealth Act No. 141, or the Land Registration Act 496. This provision includes areas with a slope of eighteen per cent (18%) or more as alienable and disposable. Applicability of this option is granted only within twenty (20) years from the approval of the law. Furthermore, only individual applications are accepted. This is a form of ownership of ancestral lands that veers from the traditional group or communal rights.

Chapter 8 of the law gives the procedures in the delineation and recognition of ancestral domains and ancestral lands. The procedures

are identical to those provided under DENR Administrative Order No. 02, Series of 1992. Through its implementing agency, the National Commission on Indigenous Peoples, the law provides for the issuance of certificates of ancestral domains titles, or CADT and certificates of ancestral lands titles, or CALT. Certificates of ancestral domain claim, or CADC prior to the enactment of IPRA may be converted into CADT without going through the process under the said law.

Sections 56, 57 and 58 however, are provisions that need to be further qualified. Section 56 subjects the indigenous peoples' property rights to other existing rights. More of this will be discussed below. Section 57 recognizes the right of indigenous peoples to ownership and development of natural resources only as *priority rights*. This gives way to the inclusion of right of non-indigenous peoples to claim right to use, exploit or develop the resources up to fifty (50) years. Section 58 provides environmental considerations and allows the use of ancestral domains as critical watersheds, mangroves, wildlife sanctuaries, wilderness, protected areas, and forest cover when deemed appropriate with the "full participation of the ICCs/IPs." A different term would have been more acceptable to advocates of indigenous peoples' rights, that is, the "free and informed consent" of indigenous peoples.

NCIP – The Implementing Arm

The National Commission on Indigenous Peoples, or NCIP is created as the implementing agency of the IPRA. It shall be an independent office under the office of the President and composed of seven Commissioners representing the seven ethnographic areas identified (three regions in Luzon, three regions in Mindanao, and the island groups, including Palawan, Mindoro, Romblon, Panay and the Visayas). It further provided that at least two of the seven Commissioners shall be women. It is unclear if this clause is a design to counteract the tendency for male leaders or elders to be appointed. Also, at least two of the Commissioners are members of the Philippine Bar.

NCIP has quasi-judicial powers. It includes the power and authority to promulgate rules and regulations governing the hearing and dis-

position of cases filed before it; to administer oaths, summon the parties to a controversy, issue subpoenas; to hold any person in contempt and impose appropriate penalties; and to enjoin any or all acts involving or arising from any case pending before it.

NCIP is authorized to issue certificates of ancestral domains and ancestral lands titles.

Will the new Indigenous Peoples Rights Act protect their right to their ancestral land? Buhid family in their field, Mindoro island, Philippines (Photo: Christian Erni)

Meanwhile, its predecessors, the Office for Northern Cultural Communities (ONCC) and the Office of Southern Cultural Communities (OSCC) are given six months from the effectivity of the law for them to be fully abolished. Five Commissioners out of seven have been appointed as of this writing, among them highly questionable persons like Mai Tuan as representative of southern and western Mindanao. He is the former Mayor of Lake Sebu, a known Marcos supporter, and closely identified with Manda Elizalde's Panamin and the Tasaday controversy .

Inconsistencies of the IPRA

Crucial to the understanding of indigenous peoples' rights is the definition of terms and the concepts that entails. Section 3 of the law provides the definition of terms. However, all is not well with the definitions when the root of conflict is traced also in the constitutional provision on the public domain, a framework that has been adapted from the Regalian doctrine. Sections 2 and 3, Article XII (National Economy and Patrimony) provide that all lands of the public domain and other natural resources are owned by the state and are inalienable with the exception of agricultural lands. Furthermore, nowhere does the law state the right of indigenous peoples to deny the state from using and exploiting the ancestral domains and ancestral lands by the power of eminent domain. In Section 7 paragraph C, IPRA indicates, "No ICCs/IPs will be relocated without their free and prior informed consent, nor through any means other than eminent domain."

Whereas it may be said that the Indigenous Peoples Rights Act includes ancestral domains and ancestral lands as legitimate ways of acquiring ownership, and that it supplements the private vested rights recognized in the constitution through the Carino Doctrine and the rights provided by Section 48 of the Public Land Act, all these rights are overruled by Section 56 of the law. This section provides: "Property rights within the ancestral domains already existing and/or vested upon effectivity of this act, shall be recognized and respected."

This section restricts the definition of ancestral domains and ancestral lands. This means that "all rights inherent in private titles and

various kinds of land leases, contracts and permits as granted to big mining speculators, loggers, ranch operators, etc. are automatically retained" (Belisario 1998).

IPRA is considered too general to address the diversity of the indigenous communities and therefore deemed inadequate in meeting local problems (Leonen 1998). This goes as well with dealing with indigenous populations, as in the case of the Cordillera communities that settle and live together in a common territory. A critic says that the IPRA approach has resulted in the outright exclusion of heavily-populated melting-pot communities and therefore reduced the concept of ancestral domain to that of specific territories of specific indigenous communities (Belisario 1998).

The conceptual divide, that is, the private and the public that essentially operates in IPRA, provides the dangers in this law. The privatization of communal lands now becomes a legal concept – a new definition of what ancestral land is.

The certificates of ancestral domains and of ancestral land titles may offer a pragmatic approach towards protection of a community's territory. IPRA on the other hand, does not guarantee immunity to the indigenous peoples' ancestral domains or ancestral lands from being used or exploited by other interests, whether by the state or business groups. The "free and informed consent" of an individual, a family, or a clan is all that it takes to lose the indigenous peoples' power over their territory.

While the use of law in many situations of indigenous peoples is marginalized, and while law, per se, is seen as a transient definition of society's interest articulated through imperfect and dominated human structures, IPRA also provides the condition for change (Leonen 1998). This remains a challenge for indigenous peoples and advocates who

will have to know how to use the law to gain leverage in effecting a just and fundamental change in the given social context.

Another Arena, Another Battle

The general fear with regard to the NCIP that as it is now formulated, it appears to be another structure that simply replaced the ONCC and OSCC. The principle being espoused by indigenous peoples' advocates is that there should be more efforts to strengthen or genuinely empower the indigenous communities, and the NCIP should therefore be a structure that serves as a support mechanism, instead of the other way around.

Indeed, the dynamics of indigenous peoples' culture, their demands and needs, expectedly, cannot be fully nor effectively responded to by a law that carries with it concepts and practices which are sometimes alien to them. Setting conditions that limit the indigenous peoples' right to ancestral domain and ancestral land reduces the very meaning of cultural identity, integrity and survival.

The words of Datu Vic Saway, a Talaandig and head of PANAGTAGBO (an alliance of Lumad peoples in Mindanao), and newly appointed Commissioner of the NCIP, expresses well both the hopes and fears associated with the IPRA: "It will not solve the indigenous peoples' problems. But it is another arena where the battle can continue to be fought".

Sources:

Marvic M.V.F. Leonen, "Human Rights and Indigenous Peoples: An Overview of Recent Developments in Policy and Some Tentative Proposals for an Action Program", February 1998

Art Belisario, in "Talk Politics on the Critique of IPRA" 1998

Regional Autonomy Act Rejected by the Cordillera Peoples

R.A.8438 otherwise known as the Act to Create an Autonomous Cordillera Region was presented to the peoples of the Cordillera, Philippines for approval in a plebiscite held last March 7, 1998. This is the second attempt of the Philippine government to enact a law for the creation of an autonomous region after the 1987 Constitution recognized the right of the Cordillera people for it. The indigenous peoples of the Cordillera struggled hard for such Constitutional provision.

In 1990, the Aquino government presented for plebiscite RA6766, but it was overwhelmingly rejected by the people due to many factors, among which was a level of misinformation on the concept of autonomy. After eight years, the Ramos government through the urgings of traditional politicians decided to revive the issue and created RA8438.

RA8438 was not an improvement on RA6766, in fact for many it was even worse. Clearly, RA8438 was meant to accommodate the interests of certain politicians in the region who were constitutionally barred from seeking re-election in their respective posts. There was a need to create new government positions to accommodate these politicians. This was supposed to be the autonomous region, where they could be either the regional governor or one of the regional legislators. Aside from this obvious bias, RA8438 did not even recognize the ancestral land rights of the indigenous peoples - one of the foundations for the call for regional autonomy. Further, the law was so severely flawed that a group of cause-oriented lawyers even filed a case with the Supreme Court questioning its legality.

For the indigenous peoples' movement in the Cordillera it was clear that RA8438 had to be rejected. It was seen as another political ploy to subvert and co-opt the peoples' struggles. It was also seen as an effort to facilitate the extraction of the region's resources as seen in its provisions regarding natural resources.

Months prior to March 7, the government was busy campaigning for a "YES" vote using the issue of "FUNDS" as the main reason for accepting the organic act. Millions of pesos were being promised for the region, local officials were warned that should a "NO" vote pre-

vail in their areas they were to receive no allocation at all in terms of projects. In the so-called information campaign handled by the government the flaws of the law were disregarded and instead the issue of more funds was used as an argument for voting "YES". Meanwhile, the case with the Supreme Court did not move at all.

Finally, last March 7 a large number (67%) of voters turned out and at the end of the counting 35% voted "YES" while the rest 65% voted "NO". RA8438 was resoundingly rejected. The rejection of RA8438 by the peoples of the Cordillera was not a rejection of the idea or causes of autonomy, in fact it was a re-affirmation that the people want genuine autonomy and not the sham autonomy being peddled by government. There was a higher level of understanding on the issues involved, people voted "NO" because they rejected the politicians who actively campaigned for the law. The people also rejected the idea that they could be bought by promises of funds. It was also a rejection of government policies and programs.

The Cordillera people are still very much for regional autonomy but this must be worked out on the community level and not legislated from above. In consultations after the plebiscite peoples' organizations affirmed that the fight for genuine autonomy continues.

EAST TIMOR

East Timor was invaded by its neighbour Indonesia on 7 December 1975. Since then, at least 200,000 people - almost one-third of the population - have died as a result of war, starvation and disease. But Indonesia's annexation of the former Portuguese colony has never been recognised *de jure* by the international community.

It is in violation of 12 United Nations resolutions: two by the Security Council, eight by the General Assembly and two by the Human Rights Commission in Geneva. The UN still regards Portugal as the administering authority of the territory. In June 1995, the International Court of Justice at the Hague (known as the World Court) confirmed that the people of East Timor still have the right to self-determination in accordance with international law and the UN Charter.

In July 1997, South African President Nelson Mandela travelled to the Indonesian capital Jakarta where he met with President Suharto. Mandela also met with Xanana Gusmao, the commander of the East Timorese resistance movement, who is serving a 20-year sentence in Jakarta's Cipinang Prison, some 2,000 kilometres from his homeland, and who has been described as 'Asia's Nelson Mandela'.

Following his visit to Indonesia, the South African president called for the release of Xanana, saying this was essential to resolve the conflict, and offered to host peace talks between Indonesia and East Timor. The Indonesian government politely declined on both counts, and thus another diplomatic effort failed to achieve a breakthrough.

East Timor is often described as a hopeless cause. Many pragmatists and realists advise the people of East Timor to give up their struggle: Indonesia is there, the argument runs, and is going to stay there. It is a *fait accompli*. Other observers, among them many East Timorese, take a different and more honest approach: if history teaches us anything, they say, it is that no state and no border will endure for eternity.

Sometimes, when international circumstances change, it becomes possible to fulfil dreams and hopes which were long considered futile. President Suharto's 'New Order' regime was weakened by a serious political crisis in July 1996 and by a dramatic economic crisis which began in mid-1997. Suharto himself was forced to resign in May 1998. A future democratic government of Indonesia may well recognise East Timor's right to self-determination and independence.

Several Parallels

If we look at recent world history, we find several parallels to the case of East Timor. Some of them give grounds for optimism, while others send a more mixed message:

- Cyprus, for many years a British colony, became independent in 1960. In July 1974 it was invaded by Turkey which still occupies the northern part of the island. In theory, Cyprus enjoys the protection of three NATO members, Greece, Turkey and the United Kingdom, of which the latter still has two military bases in the

southern part of the island. Since August 1974 there has been no war in Cyprus. The green line dividing Greek-Cypriots from Turkish-Cypriots is guarded by UN peacekeeping troops, but there is still no solution in sight.

- The Western Sahara, for many years a Spanish colony, was invaded in November 1975 by Morocco from the north and Mauritania from the south. A resistance movement, Frente Polisario, had been fighting for freedom since May 1973. In 1979 Mauritania gave up, but this merely made Morocco claim the whole territory. In 1991 the UN Security Council endorsed a peace agreement which included a truce and a referendum. Six years later there has still not been a referendum because of bureaucratic obstructions from the Moroccan side.
- Namibia, for many years a German colony, was invaded in 1915 by South Africa. In 1988 Angola, Cuba, South Africa and the United States signed an agreement which included a withdrawal of Cuban and South African troops from Angola. The first free elections in Namibia were held in November 1989. The territory became independent on 21 March 1990, and the former liberation movement SWAPO, which had been fighting for freedom for many years, formed the first government of the new Namibia.
- Eritrea, for many years an Italian colony, was forced in 1952 by the UN to enter into a federation with Ethiopia. Ten years later Ethiopia annexed the territory. By then an Eritrean liberation movement had already begun the struggle for freedom. The war went on for 30 years. It ended in 1991 when the government in Addis Ababa collapsed. The new Ethiopian government recognised Eritrea's right to self-determination, and independence was confirmed in a referendum held in April 1993.
- The Baltic countries (Estonia, Latvia and Lithuania), for many years part of Imperial Russia, achieved independence for a brief period between World Wars One and Two. But at the end of World War Two they became a part of the Soviet Union. When the Berlin Wall fell and the Soviet empire collapsed, the Baltic countries pro-

claimed their independence once again. The USSR was formally dissolved on 31 December 1991, and the next day the former Soviet republics were transformed into 15 independent states, which now form part of the C.I.S. the Confederation of Independent States.

Violations of Human Rights

President Mandela's meeting with Xanana in July 1997 and his subsequent offer to host peace talks between Indonesia and East Timor was a significant event on the diplomatic front, but it did not lead to any immediate breakthrough or change in the situation. The conflict remained as deadlocked as ever. Human rights violations continued all through 1997.

According to some independent observers the situation was even getting worse. In August 1997 the Melbourne-based East Timor Human Rights Centre issued a report covering the period from January to July 1997 entitled *Human Rights Deteriorate in East Timor*. The following month the New York based Human Rights Watch Asia issued a report focusing on the period from May to July 1997 entitled *Deteriorating Human Rights in East Timor*. Both organisations supported their claim with a wealth of information based on many different sources.

In its report of August 1997, the East Timor Human Rights Centre stated that:

> 1997 has been characterised by grinding guerrilla warfare and a continuation of the strong movement of urban resistance and East Timorese nationalism which is directed against what the East Timorese perceive as Indonesian colonialism. During the election period, there was a notable increase in the activities of the armed East Timorese guerrillas (Falintil) who launched a number of bold attacks on Indonesian military and police targets. There were repercussions for the civilian population when the Indonesian military responded by launching an intensive military operation throughout East Timor. According to ETHRC sources, the operation is called *Operasi Gerakan Tuntas* (Operation Extermination) and is targeted at East Timorese people who are allegedly involved in the Clandes-

tine Front or the armed East Timorese Resistance. The crackdown has so far resulted in hundreds of arbitrary arrests, and at least forty people being killed.

In its report of September 1997, Human Rights Watch Asia pointed out that:

The months of May, June and July 1997 seemed to mark an intensification of the conflict in East Timor, with guerrilla attacks on both Indonesian military targets and civilians in Dili, Baucau, Ermera, and Los Palos, and intensive operations by the Indonesian army to find and punish those responsible. The timing of the attacks was linked to the 29 May national elections in Indonesia in which Foreign Minister Ali Alatas ran representing East Timor on the list of the ruling party, GOLKAR. Both Alatas and Transmigration Minister Siswono Yudohusodo made highly publicized campaign visits to East Timor in mid-May, with Alatas [being] challenged by students at the University of East Timor on Indonesia's refusal to hold a referendum on the territory and Siswono's presence serving to underscore the highly sensitive issue of how government-sponsored migration is changing the demographics of East Timor.

The outcome of the election was never in doubt — GOLKAR won in East Timor by more than 80 percent of the vote as opposed to its 74 percent overall victory in Indonesia — but guerrillas targeted polling places, election officials, and, in some cases, voters to highlight their rejection of Indonesian rule. Some thirty people died in the attacks, including at least ten civilians, whose deaths Human Rights Watch condemned as a clear violation of international humanitarian law.

The Death of David Alex

Both reports mentioned the case of guerrilla commander David Alex who died in June 1997. The guerrilla commander was captured on 25 June with five other men in a village near Baucau by Indonesian armed forces. According to Indonesian sources David Alex died later that day as a result of bullet wounds which he sustained during an armed conflict with Indonesian troops at the time of his arrest.

The East Timorese opposition and many solidarity groups around the world suspected that David Alex was murdered by the Indonesian

security forces in his hospital bed in Dili. The Indonesians denied this, but so far there has been no independent investigation into the circumstances of his death and it is doubtful that the Indonesian authorities will ever allow a post-mortem.

Another controversy arose over David Alex's burial. The Indonesians said he was buried in Dili on 26 June in a ceremony attended by family members and at which a Catholic priest officiated. But the body was not made available for autopsy before burial, and the family denied that they attended.

Later it was reported that the family was now satisfied that David Alex was in fact dead, but his family may have been under pressure to accept the military's version of events rather than demand that the authorities exhume the body for the purposes of an identification and an autopsy.

The Mahkota Hotel Demonstration

The London-based human rights organisation Amnesty International follows developments in East Timor very closely and publishes a large number of documents on this conflict. A case in point is the Mahkota Hotel demonstration.

On the morning of 23 March 1997 about 200 East Timorese, mainly young people, gathered outside the Mahkota Hotel in East Timor's capital Dili where the Pakistani diplomat Jamsheed Marker was staying. He had recently been appointed as the Personal Representative of the UN Secretary General Kofi Annan. It was a peaceful demonstration. The Timorese just wanted to hand over some documents about life in East Timor to the UN official. Police monitored the event, but took no action at first. After a while the demonstrators moved into the hotel lobby. They did not meet Mr. Marker, but handed their material to a member of his staff. Then police and military troops intervened brutally, at the same time blocking the exit to the street.

The security forces fired warning shots into the air and rubber bullets into the demonstrators. Some managed to escape, but many were arrested after which they faced serious charges for taking part in the

206

peaceful demonstration. In a review, issued in June 1997, just before the trials began, Amnesty International described how:

> A total of 17 people are facing charges under the 'Hate-sowing' Articles. Three people, Marito Brafas Soares, Cancio A. Henrique Guterres and Alberto da Costa (alias Bareto), are facing trial under Article 154 of the Criminal Code which punishes the 'public expression of feelings of hostility, hatred or contempt toward the government' with up to seven years' imprisonment. A further 14 people are facing a primary charge under Article 154 and a subsidiary charge under Article 155 which prohibits the expression of feelings of hostility, hatred or contempt toward the government through the public media, with a maximum penalty of four and a half years' imprisonment...
>
> Sixteen other people are facing charges of assault under Article 354 of Indonesia's Criminal Code... At least four of those now awaiting trial, including two women and one man who are facing charges of assault, were among the 11 taken to hospital for treatment after being injured by the police. The two women who were wounded, Olga Amaral and Celina Pires da Costa, are believed to have been beaten.

Amnesty International pointed out that even Indonesia's National Commission on Human Rights (*Komisi Nasional Hak Azasi Manusia* or *Komnas HAM*) criticised the security forces for their handling of the Mahkota demonstration. Clementino Dos Reis Amaral, a member of *Komnas HAM*, was quoted as saying "[p]olice attacked the protestors with sticks and also kicked and punched them." *Komnas HAM* claimed that the 24 people detained in Becora Prison had all received injuries which "suggest they were beaten up". Confirming that a total of 37 protesters had been beaten, Clementino Amaral said that "[t]hey have swollen eyes, mouths, backs and chests. Some haven't eaten for four days because they can't do it as a result of the beating." Another member of *Komnas HAM*, Albert Hasibuan, was quoted as saying that: "Law enforcers in East Timor should put the law above anything else in handling any affairs; the law has not been enforced as people expect."

The fact that Indonesia established a National Commission on Human Rights in 1993 means that some cases are being investigated

more thoroughly than before, but the commission has no authority over the Indonesian military, let alone the Indonesian policy of annexation.

The trials against the demonstrators began in July 1997. By the end of the year they were still in progress. Experience shows that if one is charged with crimes against the state or the head of state in an Indonesian court, it is very difficult to be acquitted, especially if the defendant happens to be an East Timorese youth who dares to defy Indonesia's occupation of the territory.

Photos of Torture and Other Abuse

Since the Indonesian invasion of East Timor in 1975, most evidence about human rights violations have come in the form of written accounts smuggled out of the country or oral statements by refugees living in exile. There have been very few images available. The reason is obvious: for many years the Indonesians kept the territory isolated from the outside world. In 1989 it was officially opened up to tourists and others, but it is still difficult or impossible for members of the press to do any sort of meaningful work there. However, some photographs and films have become available during recent years.

In 1997 the Darwin-based East Timor International Support Center (ETISC) published a booklet with many disturbing images of torture and other abuse by Indonesian troops. The booklet, *Violations of Human Rights in East Timor*, contains a total of 69 photographs of the dark side of life in East Timor: 26 in colour and 43 in black-and-white. Most are photos, but a few are still pictures taken from a videotape. Some are taken by a foreign reporter whose name is known, but most of them are taken by anonymous persons.

The oldest photos are from 1979, taken by the Australian reporter Peter Rodgers, who had to smuggle his pictures out of the country to avoid Indonesian censorship. The most recent ones are presumed to be from 1997. The oldest selection shows the famine from 1979 to 1982; the rest show torture and other kinds of physical abuse.

The authenticity of a photo taken by a reporter whose name is known is not in doubt. But what about photos taken by an anonymous per-

son? Can they really be genuine? Obviously, ETISC believes in them. That is why the group decided to publish them. The Indonesians, on the other hand, have regularly denied the authenticity of these and similar photos, claiming they are fakes or staged in order to discredit the government of Indonesia.

What are we to think? Obviously, the Indonesians do not invite members of the resistance to take pictures of torture and then send them abroad for publication. So how does it happen? Human Rights Watch/Asia offered an explanation in its report of September 1997:

> Torture has even apparently become a source of income for individual officers in East Timor who are selling photographs and even videotapes of interrogation sessions to the highest bidder, with the price rising as more details (such as where and when the interrogation took place) are included.

Some Indonesian soldiers take pictures or videotapes of torture in progress. They do this for military documentation purposes or just to have a personal and macabre souvenir. Later some soldiers sell this evidence to make some extra money. The images published in the Australian booklet may very well be genuine. But this does not mean that every disturbing image purporting to show torture in East Timor is authentic.

In its report of September 1997 Human Rights Watch/Asia states: "In July 1997, we saw one set of photographs that had been purchased in this way and spoke with the buyer who requested that we not use his name or that of the officer who sold him the prints." But in the report they do not publish any of them, suggesting that they question their authenticity.

East Timorese Women

The people of East Timor has suffered for more than 20 years under Indonesian occupation. Maybe one group has suffered more than the rest: East Timorese women have been subjected to a fate that is particularly harsh. They make up half the population, but their problems and concerns are often ignored when the conflict is being discussed.

Over the years many observers have mentioned Indonesia's oppression of East Timorese women, but the topic has never been fully explored. Amnesty International issued a document about women in Indonesia and East Timor in 1995, but apparently nobody had made a detailed investigation of this topic until the end of 1997 when the East Timor Human Rights Centre published two reports. The first was written by the American scholar Miranda E. Sissons of Yale University, the second by the Indonesian dissident George Aditjondro who currently lives in exile in Australia where he teaches at Newcastle University.

Miranda Sissons focuses on coercive sterilisation of women and coercive family planning under the Indonesian family planning program known as *Keluarga Berencana Nasional*, whereas George Aditjondro covers rape and other forms of sexual abuse: sexual harassment; forced 'marriage'; the use of women as 'sex slaves' or 'comfort women'; and prostitution.

Why should it take 20 years or more for a serious study about East Timorese women to appear? The first and obvious explanation is that it is difficult to conduct fieldwork about violence against women, or against anybody for that matter, in East Timor because of the Indonesian military presence. A second explanation is that East Timorese women are extremely reluctant to talk about these matters. There is hardly anyone they can turn to in this sensitive area. A third explanation is that the people who talk and write about East Timor have not paid enough attention to this aspect of the conflict. This criticism also applies to the East Timorese themselves. At least one female member of the resistance movement (Milena Pires) has complained that there are too few women in the leadership of the organisation.

Some men dominate and abuse women. It happens all over the world. But in most places it is an exception and not a part of government policy. In East Timor the situation is quite different. Here domination is built into the system because of Indonesia's brutal occupation: on one side we have Indonesian men in authority (military, police or bureaucracy); on the other we have East Timorese women. How can they defend themselves? And, in case their rights are violated,

how can they hope for justice from a system which violated them in the first place?

Sad as Well as Uplifting

East Timor's recent history is sad as well as uplifting: it is a sad story of a crime against a people conducted by Indonesia's military regime and supported by many Western countries. At the same time it is an uplifting story of a people who continue to fight for peace and justice against overwhelming odds.

Indonesia tries to buy the East Timorese with so-called 'development', i.e. large investments in roads and other public facilities, and to beat them into obedience with violence and destruction, with prisons and torture. Western countries try to ignore them. But East Timor refuses to surrender, and the truth refuses to go away.

The conflict over East Timor was originally a product of the Cold War. Indonesia's crimes against the tiny territory were condoned and justified by Western governments because the anti-Communist dictatorship in Jakarta was considered an important and necessary ally in the ideological struggle between East and West. This argument was always in doubt, and now, with the Cold War long gone, it has absolutely no value.

The 'New World Order' which was proclaimed by U.S. President George Bush during the Gulf War against Iraq in 1991 was supposed to be a world where international law would be respected and where human rights would not have to yield to cynical economic interests. But so far this beautiful vision has failed to materialise in East Timor.

Even though Indonesia's annexation of East Timor has never been recognised *de jure* by the international community, there has been a *de facto* recognition. Many Western governments have given extensive diplomatic, economic and military support to the Suharto regime and its illegal action against its neighbour.

One country, Australia, has gone even further, giving not only *de facto* but also *de jure* recognition of the annexation (1978). In 1989 Australia and Indonesia signed a formal treaty for the exploitation of oil resources in the sea south of East Timor, known as the Timor Gap.

which the resistance movement considers as East Timorese territorial waters.

Pointing to these and similar facts some observers say that Indonesia's occupation of East Timor continues largely because of Western connivance and hypocrisy.

There is no legal or moral justification for Indonesia's presence in East Timor, and the examples of Eritrea, Namibia and the Baltic countries demonstrate that even a long-standing occupation of a foreign territory is no guarantee of permanent possession: in the end the aggressor had to withdraw and bow to the people's wish for essential democratic rights.

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ETISC, East Timor International Support Center, P.O. Box 651 Nightcliff, Darwin 0814, Australia; phone (+61) 8 8948 4458; fax (+61) 8 8948 4498; e-mail: etio@ozemail.com.au. Homepage on the Internet with much information and many useful links to other web sites: http://www.easttimor.com

213

INDONESIA

Forest Fires Caused Unprecedented Destruction

An estimated 2 mio. hectares of forest and non-forest were destroyed last year by the worst forest fires ever seen in Indonesia. The Indonesian environmental NGO WALHI however is predicting that this year's fires may be bigger even than last year's disaster. According to Klaus Töpfer, executive director of the United Nations Environment Programme (UNEP), the fires "may turn out to be one of the greatest ecological disasters of the millennium" *(Reuter* 2/4/98). Due to the prolonged and unusual drought this year the fires are destroying large areas of mature rain forest, normally too wet to burn up completely. Not only have these fires devastated vast swathes of forests and farmland, they have endangered the health of tens of millions of people across at least six countries. Smog and smoke have choked the cities and countryside for millions of square kilometres, from Indonesia as far north as Thailand and the Philippines.

For the indigenous forest-dwellers of Indonesia the price is doubly high: they have suffered the effects of breathing the poisoned air, and their lands and resources, taken by the plantation and timber estate companies, have literally gone up in smoke.

This year, satellite imagery has been able to show what most people knew all along: that big business and not small-holders or indigenous farmers are responsible for the fires. What was new this time around is that government ministers, notably Environment Minister Sarwono, spoke out against the greed and short termism of the plantation and timber companies. "They have a high level of education, but a primitive way of thinking. They only seek the biggest profit, without thinking of the national interest", said an emotional Sarwono at a press conference last September.

Forestry Minister Djamaludin has backed Sarwono, publishing lists of companies identified by satellite pictures as being responsible for starting fires. The most comprehensive of these, which names 176 companies, includes companies owned by Indonesia's most powerful tycoons - Bob Hasan, Pangestu Prayogo (Barito Pacific Group), Anthony Salim (Salim Group) and Eka Tjipta Wijaya (Sinar Mas) - as

well as members of the Suharto family itself. Some of the 176 companies had started clearing land without waiting for their applications for land clearing licences to be approved. Djamaludin announced that these companies had fifteen days to submit reports to prove they had not started the fires, or would have their licences withdrawn. In early October he duly announced that 151 licences had been withdrawn from 29 companies, including three belonging to Bob Hasan in East Kalimantan. One plantation company on the list of 29 is PT Musi Rindang Wahana, in South Sumatra, a part of the Citra Lamtoro Group, controlled by recently austed president Suharto's eldest daughter, Tutut (*Forum Keadilan* 23/6/94). It remains to be seen how far Bob Hasan and friends will allow Djamaludin to oppose his authority (Bob Hasan is sometimes referred to as the "real" forestry minister). On previous occasions when ministers have challenged the tycoons, they have usually been forced to back down.

The industry attempts to defend itself, but their arguments ring especially hollow when the likes of Bob Hasan admit they see nothing wrong with burning to clear land, even though it has been officially outlawed by the government. The fact that deliberate burning is still continuing shows instead how confident the tycoons are that they are above the law. Such is the culture of cronyism that has pervaded Indonesian economic life.

Logging and Plantations

The massive and permanent loss of natural forests in Indonesia is a direct result of the loggers' rush to make the greatest possible profit in the short term, at the expense of the forests themselves and the indigenous and non-indigenous forest-dwelling communities who traditionally own them.

This emphasis on "mining" the forests makes fires and smog inevitable. Logging involves extracting the most valuable commercial trees, but the heavy machinery used brings down many more smaller or non-commercial trees at the same time, leaving behind large amounts of waste wood. As it is dried by sun, which can now penetrate the broken forest canopy, it is turned into a natural tinderbox, igniting with the

smallest spark. At the same time, many forests grow on peat and coal deposits, which burn deep underground and can become impossible to put out. Long after the surface fires have been put out in Kalimantan and Sumatra, these unseen, underground fires may smoulder on for years.

But the conversion of huge tracts of forests into plantations has emerged as the policy which is most directly to blame for the fires and their life-threatening smoke. The drive to plant high-earning export crops is part of government economic strategy to reduce dependence on oil and gas for foreign currency earnings. The current craze is to plant as much land as possible with oil palm and topple Malaysia from its position as the world's biggest producer of palm oil.

Jakarta plans to double its area under oil palm to 5.5 million hectares by the year 2000. This year alone, 300,000 hectares of forest was approved for conversion to the crop, which is used to make soap, margarine and cooking oil. Meanwhile, Jakarta has similar ambitions for pulp production, aiming to become the world's biggest producer at some undefined point next century. The target for timber estates to produce pulpwood is 4.4 million hectares by 2004 (*Guardian* 14/10/97).

To make way for plantations natural forests, which have usually been logged for commercial timber, are cleared by burning because it is the cheapest and quickest method of preparing the land. According to Forestry Minister Djamaludin, around 550,000 hectares of natural forests are cleared each year for plantations alone.

In September last year Djamaludin said that 650 companies were lining up for government permits to convert forests into plantations. If all permits are granted, up to 6 million hectares of forests would be converted (*Jakarta Post* 25/9/96). How unscrupulously the indigenous communities are treated by these companies, and how little protection they can get from the utterly corrupt juridical system of the Indonesian state is illustrated in the case of the Bentian people in East Kalimantan.

In 1993, an Industrial Tree Plantation (HTI, Hutan Tanaman Industri) operated by the Kalhold Utama Logging Concession Holder (Kalimanis

Group), began without consultation or consent of the *Bentian* indigenous people to clearcut, bulldoze, and burn their rattan forest gardens. The horrified Bentian pleaded with the company not to destroy their rattan groves, which represented the basis of cash income of the community. They reiterated their support for the HTI and offered to make land available in a location that was not in the heart of their most valuable forest. The company, unfortunately, refused to listen or negotiate and continued to bulldoze and burn Bentian groves. On the contrary, in response to the community's pleas, they initiated a campaign of terror and intimidation. They had the local police chief set up a police office inside the company's base camp and conduct frightening interrogations of the local farmers at the base camp. Pak Dingit, Bentian *adat* leader and a well known indigenous environmental activist, and others documented the destruction and took photographs of the burnt gardens and the ruined grave sites where the Bentian ancestors' bones were scattered on the ground after the company bulldozed the burial sites.

Pak Dingit also assisted the grieving families to make lists of the destroyed rattan groves and fruit trees owned by each family. Over 10,000 rattan groves and 2,000 fruit trees (including endangered species of Koompasia, prohibited for logging both by Bentian *adat* law and national forestry law) had been destroyed.

After Pak Dingit helped the affected families to make lists of their destroyed fruit trees, he presented the lists to the responsible government officials and reported on the activities of the Logging Concession (HPH, Hak Pengusahaan Hutan) and the Industrial Tree Plantation (HTI) holder. The only result was that Pak Dingit was repeatedly ordered to come in for interrogation at the Balikpapan Police hadquarters. For every interrogation he had to travel at his own expense over 500 kilometers each way from the Middle Mahakam region to Balikpapan. The purpose of the interrogations (other than pure intimidation) was never made clear.

Finally, he was told that he was going to be brought to trial on charges of forgery because some of the names on the list he had helped to make were (in accordance with Bentian *adat* concerning the identi-

fication of parcels of land) the names of dead people·or of the new husband of a divorced woman.

The fact that the company illegally felled endangered species of trees and destroyed the livelihoods of the families has never been properly addressed at the Provincial level. In Jakarta, however, the Ministry of Forestry (Director General Pak Titus) has been instrumental in working with the Bentian to help them carve out a portion of their lands from the HTI. Pak Siswono declared in 1994 that no transmigration would take place for the planned HTI-Trans (an HTI held by a company but worked by transmigrant labourers) until the problems had been worked out. But the company ignored his request and placed hundreds of transmigrants on Bentian lands in the middle of the conflict.

On February this year Pak Dingit was brought before the State Court at Kutai district capital Tenggrong to face bizarre and fraudulent charges of forgery and a possible six-year prison sentence. The Public Prosecutor (Penuntut Umum), Pak Mohammad Imam, has, in confidentiality, told friends that he was forced 'by unnamed parties' to bring the case against Pak Dingit and to ensure that he is punished. During the two hearings, the Judge has been seen to be on the telephone, apparently to 'Jakarta'. A few years ago, there was a similar case in Tenggarong involving local Dayak farmers who had problems with with an HPH and a gold mine. One of their leaders, a man of about the same age as Pak Dingit (59), was detained in Tenggarong prison. He soon died 'mysteriously' in jail and his body was returned to his family in a sealed coffin, along with a payment of 1 million rupiah.

So far, Pak Dingit's trial has not yet drawn the attention of the international news media which is currently focused on Indonesia. It is only a matter of time before this case becomes widely known and becomes an additional source of tremendous embarrassment for Indonesia as a whole. Pak Dingit is one of Indonesia's leading environmental activists, one who has demonstrated an ingenious Indonesian method of conservation and development. The Indonesian Embassy newspaper published a glowing article on him and his conservation efforts have been used by the Indonesian government in their lobbying attempts in the U.S. Congress. It is assumed that the East

Kalimantan Provincial level officials, used to carrying out their operations in relative obscurity, do not understand the national and international implications of their bizarre and misguided attempts to persecute Pak Dingit.

Mega-Transmigration Project in Central Kalimantan

In September 1997 the Transmigration Minister Siswono confirmed that fires had burned down at least 100 unoccupied houses built for transmigrants brought in to work on the megalomaniac land conversion and transmigration project in central Kalimantan. Only a month before that, Minister of Agriculture Sjarifuddin Baharsjah said the drought was not affecting the project and that 20,000 more families would be brought in as planned to join 2,500 already settled there. Scarcely a week later, another local newspaper reported that transmigrants at the project, unable to grow crops in the drought conditions, were returning home or resorting to illegal logging to make a living (*Media* 22/8/97).

The project, launched in 1996, aims to convert around 1.45 million hectares of peat swamp forests - an area about the size of Northern Ireland - into rice-fields, plantations and transmigration sites. Scientists say the project cannot succeed because the peatlands will not support this kind of agriculture. Nevertheless, on the instructions of Suharto, the project blunders on and the forests are burned to the ground in what one journalist recently termed an act of government-sponsored "hooliganism" rather than of development. The lives of indigenous Dayak people living in the project area have been devastated by the project.

Starvation in East Kalimantan

The economic crisis, which has hit Indonesia hard, is making matters worse. Villagers cannot afford the inflated prices of rice and other necessities they now must rely on as they run out of food produced themselves. Future prospects look bleak. Almost all this year's rice crop has failed in East Kalimantan and many of the rattan and fruit gardens which normally generate extra income have been consumed by fire.

No substantial rains are expected before July or August, meaning no rice harvest until February 1999.

Twenty five thousand people were facing severe food shortages as early as February, according to a report in *The Age* (22/2/98) as no significant rainfall had fallen in the usual wet season. Around the same time Dayak villagers from Kutai, representing 8,000 people, went to the vice-governor of East Kalimantan, requesting a free supply of rice to affected villages. By April this year, the official figure for people suffering food shortages had risen to 55,529 (*Kompas* 2/3/98, 3/4/98, *Kompas* OnLine 9/3/98).

Water shortages are becoming severe owing to the drought and as fire-fighting efforts and communities rely on the same meagre resources. Dried up rivers cannot be fished and make transport of food supplies more difficult. In some areas high acidity levels may make fresh water unfit for drinking.

There is evidence that the fires and famine are reinforcing the marginalisation of indigenous Dayak communities. One report tells how companies are using the fires to try and force local people off their land. Dayaks in Lempunah village who have refused to exchange their land for places on an oil palm project have seen their village stricken by mysterious fires (*Independent* 9/2/98). In other places Dayaks who have been coerced or forced into exchanging land for food have no option but to work for minimal wages as labourers on the plantations. Some believe that the companies are burning local fruit and rattan gardens on purpose to force a settlement on resisting communities. At the same time, some villagers are settling old scores and setting fire to plantations developed by large companies.

As in West Papua (see article in Chapter on The Pacific and Australia), the government appears reluctant to admit the seriousness of the famine threat. One forestry department official suggested that the fires and food shortages were following a fifteen year cycle - an attempt to put the problems down to natural forces. But this is contradicted by a Kenyah Dayak leader from Muara Anclong in Kutai district who says his community has not experienced food shortages due to forest fires since the Japanese occupation (*Kompas* OnLine 12/3/98). Local people are said to be forced by hunger to sell their land to

the local oil palm plantation company at the rate of one hectare for 10 kg of rice.

Thus far the government's response has been woefully inadequate. Some rice has been shipped upriver, but there are reports that relief supplies are being sold by corrupt officials instead of being handed out free of charge. It remains to be seen how committed the new government will be to alleviating poverty among remote indigenous communities: "isolated tribes" as they are officially called.

Ironically, among the very few sources of assistance have been the companies that are exploiting the province's natural wealth most intensively. The Indonesian loggers' association, the MPI, has handed out rice, instant noodles, sugar, salt and medicines - little repayment indeed compared to the massive profits extracted from forests traditionally owned by communities now facing starvation. The gold mining company PT Kelian Equatorial Mining (PT KEM), part-owned by Britain's Rio Tinto, said in March it was planning a four-month operation to bring aid to 67,000 people in four subdistricts (*Guardian* 23/3/98).

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MALAYSIA

Sabah

Economic and Smog Crisis

The economic crisis which began in early 1997 dominated the scene in Sabah. As a result of the crisis there has been a reorientation of development programs in the state. The emphasis has been on the consumption of locally produced goods and the revival of the agricultural sector to increase exports and food production. In a way this shift in policy is good news for indigenous communities. Those communities residing near town areas enjoyed a more responsive market for their agricultural produce, apart from being given more attention and support from the agricultural department and other relevant government

agencies. The shelving of some development projects, like hotels, resorts and golf courses has spared some communities from being displaced from their customary land. However, since the industrial and manufacturing sector, which still relies heavily on imported contents, is not doing well, more investment has gone into enlarging existing oil palm and tree plantations, and this has threatened ownership of customary land. The drop in the value of the Ringgit by more than half has also resulted in price hikes for essential goods like sugar, flour and cooking oil.

The smog crisis which resulted from the combination of unusually dry conditions and rampant burning of felled-forest by private companies for commercial oil palm and tree plantations in Borneo, also dominated the scene. At its peak at the end of the third quarter of 1997, Sabah was blanketed by smog, with visibility reduced to between six and ten kilometres, and its people suffocated for almost four months. During this period the indigenous communities who are still practising traditional field clearing method for crops was not spared of blame by the government. The effect of the smog together with the prolonged drought was the state-wide drastic reduction of food crop production. Indigenous wet rice farmers in Sabah had one of their worst rice harvests in years. For example, farmers in Western Sabah complained of a reduction of about 50% in their harvest. Some farmers who were severely affected do not even have seeds for the next planting season.

Land Rights

In November 1997 the state government amended the Native Customary Rights (NCR) of the Sabah Land Ordinance 1930 (Cap 68), despite fierce objection from the opposition party. The amendments provide for government power to extinguish land rights held under NCR by paying money. There is no provision requiring the government to hold a public inquiry to determine the rights of the parties affected. There is also no requirement that the taking-over of land held under NCR shall be for public purpose as in the case of land with title. There is nothing to prevent the government from granting the same land to a new applicant for private development immediately or later. Clearly this amendment has the effect of diminishing the established NCR of

222

indigenous people of Sabah which make up about 70% of Sabah's population and who still depend very much on the land for their livelihood. This amendment was clearly made to pave the way for the establishment of privately-owned commercial plantations, hotels, resorts and golf courses which is seen to be in conflict with the interest of the indigenous communities.

Management of Natural Resources

September 1997 saw the launching of the Sabah's Sustainable Forest Management System (SFMS), prepared by the Department of Forestry with technical and financial support from the German Government through GTZ. For the past two years, the SFMS has been implemented in Deramakot Forest Reserve, as a pilot project, and is now being introduced to 16 other Forest Management Units (FMUs) in the state. By 2004, the state government expects all the commercial forest reserves to be managed along similar lines as in Deramakot. The International Tropical Timber Organisation (ITTO) has enforced that by the year 2000, consumer countries will only be allowed to buy logs felled from a forest on a sustainable basis. The management of the FMUs involves forest zoning into four groups for : (i) Protection of soil, water, climate, flora and fauna, (ii) Production of timber and customary rights to collect fruits, rattan, game and medicinal plants, (iii) recreation for urban population and tourists, and (iv) Community needs to support the local population living in and near to forest areas. Currently 10 FMUs (each about 100,000 hectares and 100-years tenure) have been given to 10 private companies to be sustainably managed by them. All the 2.7 million hectares of commercial forest reserves will eventually be given to private concessionaires. About 1 million hectares are presently under the management of Sabah Foundation.

While the aim of the SFMS is laudable and deserves full support from all quarters, and in the long term should be beneficial to the indigenous communities and the state as a whole, it is yet to be seen whether it could be successfully implemented. Much has been said about the policy by both the government and opposition. The lack of transparency in the whole affair of awarding of the FMUs to private companies has been the main stumbling block for its successful im-

plementation. No one really knows how the FMUs were allocated, but it seems that the opposition party's contention that it did not go through the proper procedure is justified. Some of the private companies selected to manage the FMUs are not qualified at all and most do not have any experience in forest management. Most of the companies are previously owners of logging concessionaires, and have been mainly responsible for the deplorable condition of the forests in Sabah today. While the SFMS recognises the needs of the local community, in practice this has not been strictly adhered to. In northern Sabah, several indigenous communities have been resettled in an area far from their traditional lands, as part of this exercise. Certainly, the interest of local communities is being side-lined and their rights to their customary land is clearly not respected by the implementors of SFMS. The proper management of the FMUs is thus questionable at this stage, and if left unsupervised may lead to greater environmental damage and human misery.

Conservation issues have gained some grounds as a result of works by WWF Malaysia and other NGOs. For example 1997 saw the formulation of a national policy on biodiversity as a follow-up of the Convention on Biodiversity. While conservation of resources is needed, its objectives may go against the interests of indigenous communities. In Sabah, the gazettement of the Lower Kinabatangan River area as a conservation area in 1996 has created problems for the people in terms of access to their traditional resources. The ecotourism industry actively promoted here, to generate alternative sources of livelihood, has not benefited the locals, as their participation is quite minimal.

Indigenous Peoples Network

The campaign by the Indigenous Peoples Network of Malaysia to gain recognition of their rights to land, culture and their identity as indigenous peoples continued. In October 1997, the fifth National Workshop was held in Peninsular Malaysia, with representatives coming from Sabah (12), Sarawak (12) and Peninsular Malaysia (13). The theme of the workshop was development of traditional economic systems. Issues of biopiracy were also discussed. In Sabah, the network representatives organised several community workshops to discuss

rights to natural resources in terms of use, management, ownership and boundaries. For example, in August 1997, more than 50 people from 8 villages in northern Sabah participated in a mapping workshop to discuss community mapping skills and methodologies. As a result of the workshop the participants were able to map their village boundaries and sort out overlapping and disputed boundaries among themselves. This activity is also an initial step to regain their customary land, encroached upon by a state agency (SAFODA), dealing with tree plantations.

Sarawak

The Dayak, the diverse native peoples inhabiting the Island of Borneo, form about 49% of the 1.9 million population of Sarawak. They are the most rural communities in the state with 95% of their total population residing in the rural areas. They are subsistence farmers, inland fishermen, hunters and gatherers.

Throughout the year 1997, the indigenous communities have encountered a multitude of issues and problems as a result of various development programmes and activities implemented by the government and the private sector. These activities are severely threatening their survival, the customary land rights and rights over resources which represent the lifeline for most of the indigenous Dayak groups in Sarawak.

Logging

Logging activities continue and are widespread all over the state. About 70 percent of the land area in Sarawak has been licensed to logging companies. Most of the logging licences are issued over the customary land of the indigenous communities. In many cases, logging concessions are found to have overlapped or covered the native customary land within the boundary of the native communities without their knowledge or informed consent. Logging has been carried out indiscriminately by the timber companies which has led to extensive destruction of lands, crops, burial sites, forest resources and pollution of rivers. The natives have lodged many complaints to the authorities

concerning these problems, but their complaints are continuously ignored.

Betw en 1987 and the early 1990s, the native communities put up a series of major blockades across logging roads in the state to prevent loggers from entering and destroying their customary land and forest. During this period, hundreds of natives were arrested, detained, charged and imprisoned for timber blockades. These blockades interrupted logging operations throughout the state.

At present, the indigenous peoples are still erecting blockades and protesting against the timber companies in the interior region of Sarawak. However, there is a total media blackout (both locally, nationally and even internationally) on the matter. In March 1997, the *Penan* community in the interior of Baram Region was badly treated by a group of Police Field Force (PFF) at a peaceful protest against logging. The PFF arrested four Penans and injured several others. They were charged at Marudi Magistrate for illegal assembly. Shortly after they were released the Police rearrested them for alleged stealing. Their case is still pending. At another blockade in Ensika, Kota Samarahan Division, 25 *Ibans* were arrested and are facing severe criminal charges.

Plantations

The Sarawak State Government plans to develop 1.5 million hectares of native customary land (NCL) as oil palm plantations. Large tracts of land which include the customary land of the natives have been earmarked and alienated by the government to be developed for plantations under the "New Concept" of Native Customary Land (NCL) development.

Recently, to enable the private companies to acquire and develop native customary land, the State Legislative Assembly has amended the land law to give the Chief Minister powers to extinguish native customary rights not only in the national interest but also in favour of private enterprises.

In implementing the land development programme, the government mainly grants provisional leases to the State statutory bodies/ agencies or private companies for a period of 60-90 years. Once the land has been leased, the agencies or the private companies become

the proprietors of the land. Without the knowledge or consent of the native communities, most of their NCL has been appropriated by private companies which are either state owned or owned by the same people who were granted the logging licences or permits to develop these land areas into oil palm plantations.

The native communities are opposing and resisting the implementation of oil palm plantations within their NCL and the acquisition of their customary lands for that purpose. In those areas which are currently affected, the indigenous communities are actively protesting to

Dayak during a logging road blockade in Long Geng, Sarawak (Photo: Nigel Dickenson/Leader Photos)

stop the operation of the oil palm plantation developers. As a result, they have been constantly intimidated, harassed, assaulted and suppressed by the police. In 1997, more than 80 natives have been arrested and detained for resisting the take-over of their lands by plantations.

In a recent incident, on 19 December 1997, about 50 Police Field Force personnel armed with batons, pistols and M16 rifles opened fire

on the unarmed Dayak Ibans at a peaceful protest within their compound in front of their longhouse at Rumah Bangga, Sungai Sebukut, Bakong, in Baram district of Miri Division. Three Ibans were shot. Enyang Ak Gendang, 40, was shot in the forehead and died after five days in the intensive care unit at Miri General Hospital. Eight were injured. About 30 Ibans were arrested and detained.

As an immediate action, some of the native longhouse communities who came to be aware that their Native Customary Lands have been designated for oil palm plantations have filed legal suits against the companies in the High Court in Miri. These cases are still pending for hearing.

Furthermore, the Sarawak government has targeted one million hectares of land for planted forests. To-date, some 10 timber companies have met with the Sarawak Timber Association and the Forest Department to carry out a scoping exercise to identify the concerns of potential investors in this venture.

In Tatau in Bintulu Division, the Borneo Pulp & Paper Sdn. Bhd. has alienated 373,700 hectare of land for planting of Acacia, Eucalyptus and other fast growing tree species. The site for the pulp and paper mill affects 12 Iban longhouse communities in Upper Tatau. The government has acquired and extinguished their Native Customary Rights (NCR), using provisions of the new amendments to the Sarawak land code, over a 6,200 ha area for the establishment of the mill. The Ibans are challenging the extinguishment of their NCR and also filed an arbitration in the high court.

Bakun Hydroelectric Project

The Bakun Hydroelectric Project (BHEP) is to be constructed across the Balui River in Belaga District of Kapit Division. The project was awarded without tender to Ekran Berhad, a Sarawak-based public listed company. Ekran, as the main stakeholder in the Bakun Hydro-Electric Corporation Bhd., subcontracted the project to ABB (Asea Brown Boveri), a Swiss-Swedish consortium, which was made responsible for the completion of the project by 2002. Its estimated cost is RM13.6 billion and it will have a capacity to generate 2400 MW of electricity

228

which will be mostly supplied to Peninsular Malaysia via a 640 km long high voltage undersea transmission cable. BHEP will be the largest dam in South East Asia and Malaysia's biggest and most controversial privatised infrastructure project.

If BHEP goes ahead it will submerge a land area of 69,000 ha and displace 9,000 people belonging to the *Kayan, Kenyah, Lahanan, Ukit* and *Penan* indigenous peoples. 80% of the land due to be flooded by the dam is Native Customary Rights land. Ever since the government's plan to build the Bakun dam was mooted, the affected natives in Belaga have been vehemently opposed to it as they are intimately aware of the bitter experiences of the Ibans who were displaced by the construction of Batang Ai Hydroelectric Project.

The Bakun dam project's preparatory construction work has been carried out during 1997 and the river diversion tunnels are near completion. The Native Customary Rights to land within the Bakun flooded area were deemed as extinguished in February 1997. In late 1997, some of the local people who had hoped for fair compensation were disillusioned by receiving very low compensation rates, varying from RM0.25 (US$0.063) to RM60,000 (US$15,000). The affected natives will be displaced from their ancestral lands and resettled in regimented oil palm plantation schemes in Sungai Asap, Koyan and Penyuan in the Upper Belaga River area. However, despite the serious consequences which might result from relocation, the 9000 affected natives in the Bakun region remain uninformed and most of them oppose the proposed resettlement schemes.

Meanwhile, during the last few months of 1997, due to the severe financial crisis that hit Malaysia, the federal government announced that the dam project be temporarily stopped. Uncertainty and secrecy also surrounds the name of the dam's constructors as the contract between Ekran and ABB was nullified in October 1997 and the government announced that it was taking over the project from Ekran through the Minister of Finance Incorporated, a government investment holding.

The government is at present expecting a due diligence exercise report on the state of affairs of Bakun Hydro-Electric Corporation and

229

Bakun hydroelectric project by international audit firm, Price Waterhouse, in order to decide on how to implement the take-over.

Tourism and Resort Development Projects

In recent years, the government has aggressively promoted the development of the tourism industry in the State. The government as well as private companies have built a lot of tourism related infrastructure projects such as hotels, resorts and golf courses to attract tourists and provide for their comfort and leisure. Many of these projects have adversely affected the indigenous and local communities.

The customary land rights of the Dayaks have again been affected by several schemes whereby land was appropriated by the State and then allocated to private firms to develop hotels and resorts with golf courses without the consent of the affected indigenous communities. The highland regions in the state are now designated for resorts which are likely to cause further exploitation of forest resources and environmental degradation.

Dayak lifestyles are being treated merely as tourist attractions and their longhouses are targeted as tourist destinations. The Dayks feel that their culture is being systematically violated and abused. The Dayaks in most of these targeted destinations feel that they are being treated as 'zoological objects' for the tourists. There are also cases of prostitution arising among the Dayak women.

The Borneo Height Resort Project in Kuching Division is threatening the livelihood of more than 1000 Dayak *Bidayuhs* of Ana Rais Village. The Bidayuhs have been protesting against the implementation of the project. The Resort is owned by the brother-in-law of the Malaysian Prime Minister. A series of blockade have been set up by the Bidayuhs to stop the ongoing work of the resort. Everyday, the police intelligent agents with not less than 30 police personnel are patrolling the area.

Human Rights Violation

Over the years, hundreds of indigenous people in Sarawak defending and protesting against logging, plantations and other destructive development activities within their customary land and infringement of

230

their rights have been brutally harassed, assaulted, intimidated, suppressed and arrested.

Under Malaysian laws, the rights of the natives to their land and forest and the defence of private property is recognised. Section 97 of the Penal Code states that every person has a right to defend his property against theft, robbery, mischief or criminal trespass or attempts of the above nature. But in practise, these rights are simply ignored by the private companies. The authorities on the other hand are not only very indifferent to their plight, but the Police and Forest Department officials have also arbitrarily arrested and detained the natives who put up any form of protest even though such protest was done within the confine of their own land and they have legitimate rights under the law to such forms of protest.

In a number of cases natives who were arrested and brought to court were subsequently found to be not guilty. The court decided that the natives were blockading/protesting on their own customary land, and the defence of one's property was recognised by the law. Example: Linusurud Ak Mumin & six others, Ajang Kiew & four others, 42 Ibans of Sunagi Bong, just to mention a few.

A situation of injustice persists today, where indigenous communities continue to face various threats from unsustainable development projects and arbitrary and high-handed aggression from the authorities.

The most vocal indigenous activists in the state are continuously intimidated and their privileges as citizen are denied. Thomas Jalong, Jok Jau Evong, Garah Jalong and Raymond Abin are banned from travelling abroad as their passports have been confiscated. A number of Dayak activists are black-listed by the authorities. Some lawyers and representatives of Malaysian NGOs from Peninsular Malaysia have been deported from Sarawak and are denied access to the state. If left on their own, the indigenous communities of Sarawak will be effectively and continuously isolated and brutally suppressed by the authorities.

The Orang Asli of Peninsular Malaysia

The *Orang Asli* numbered almost 100,000 in 1997. However, statistics revealed by the Director-General of the Department of Orang Asli Affairs (JHEOA) show that 80.8 per cent of the Orang Asli live below the poverty line (compared to 8.5 per cent nationally), of which 49.9 per cent are among the very poor (compared to 2.5 per cent nationally) (*The Star*, 19.2.1997). In general, nevertheless, the policies of the government towards the Orang Asli remain the same: to modernise the Orang Asli and to integrate them into the mainstream society. What was different in 1997 was how these policies were to be implemented. Two of these 'strategies' are discussed below.

Assimilation and Islamisation

In 1997, the *dakwah* (Islamic missionary activity) programmes of the authorities on the Orang Asli have been stepped up. The *dakwah* programme basically involves thė implementation of a 'positive discrimination' policy towards Orang Asli who converted, with material benefits given both individually and via development projects.

For example, the Johor Islamic Religious Department (JAIJ) announced recently that it is to accelerate Muslim missionary (*dakwah*) among the Orang Asli via a multi-agency approach (*Utusan Malaysia* 21.1.98). The programme, called "Memasyarakatkan Orang Asli" (Socialising the Orang Asli), is to be launched in April 1998 and will be co-ordinated by the Johor Department of Orang Asli Affairs (JHEOA) with assistance from the Public Works Department, the Health Department and the District Office.

According to its Director, the Department is "always ready to work with any government agency that wishes to improve the community's social and religious status of the Orang Asli who are Muslim". He added that KEMAS (Department of Community Development), which runs the kindergartens in Orang Asli areas, has been approached to sow the seeds of Islamic living through daily singing of Islamic missionary songs by pre-school Orang Asli children. "Such efforts will ensure the dissemination of Islam at an early age and thus make it

easier to propagate Islamic values among the Orang Asli", he added (*Utusan Malaysia* 21.1.98).

The Selangor Islamic Religious Council (MAIS) also expressed dissatisfaction that only about 10 per cent of the Orang Asli in Selangor have converted to Islam. The State *Ketua Penggerak Masyarakat* (Chief Community Development Officer) complained that the missionaries of other religions were more aggressive and gave out various gifts like pillows and mattresses (*Berita Harian* 11.2.98). The *Pengerak Masyarakat* (Community Development Officers) were first introduced in 1991 – trained by the Religious Affairs Department and the JHEOA – as prime movers in the goal of Islamizing the Orang Asli.

Nevertheless, despite its obvious goal of converting all Orang Asli to Islam, and despite classifying Orang Asli as Malay in official data, the JHEOA goes to great pains to stress that the policy towards the Orang Asli is one of integration, not assimilation. However, the issue of the Orang Asli's assimilation is not merely a concern of the ruling government. The opposition Islamic party PAS concurs with the view that Islamisation should be a strategy for lifting the Orang Asli out of their poverty and that they should be assimilated into society as Malays. The PAS Member of Parliament for Kubang Kerian, Mohamed Sabu, even suggested that: "Instead of being recognised as Orang Asli, they should be assimilated into the Malay race. Their culture should be integrated so that they will no longer be considered separated from Malays" (The Star 26.11.97).

Twinning for Assimilation

In 1997, the government's policy of Assimilation/Islamisation took on a new strategy, which also affected Orang Asli land rights. This is the "Orang Asli-Malay Twinning Villages" programme launched in August 1997. The aim of this programme is to "bring about integration and brotherhood between the Orang Asli and Malays, and to inculcate a positive culture and positive socio-economic values among the Orang Asli". The plan is to 'twin' Orang Asli and Malay villages in 26 areas. However, the catch is, if the first few projects are anything to go by, these new twinned villages will be on Orang Asli traditional territories.

In the case of Kampung Bawong and the surrounding Temiar settlements in Lasah, Perak, 100 lots of land for 100 families – 50 Orang Asli and 50 Malay – would be developed. Each lot, for which individual titles have been promised, will consist of four acres of oil palm, one acre of fruit garden (*dusuns*), and a 60-foot by 90-foot wooden house. However, the project is in the existing Orang Asli settlement and as such this is tantamount to the Orang Asli giving up a part of their traditional territories to enable Malay settlement. In fact, for the launching ceremony in Lasah, existing Orang Asli *dusuns* and houses were bulldozed in order to make way for the site of the launching ceremony, and for the new project.

Privatization of Orang Asli Lands

Another new programme of the government that was put into practice in 1997 was the privatisation of Orang Asli traditional territories. This is in line with the JHEOA's 10-point strategy for Orang Asli Development viz. "to introduce privatisation as a tool in the development of Orang Asli areas".

Basically, such privatisation of Orang Asli settlements work by having the Orang Asli sign away their rights to their traditional territories – either with the JHEOA as proxy or through a representative committee of the community (such as a *Majlis Adat* or Customary Council) – to a private corporation, which may or may not be an Orang Asli entity. In exchange for the rights to mine, log, and own the land in perpetuity or on lease, the corporation enters into an agreement to provide basic infrastructure facilities and housing for the Orang Asli. In some instances, the promise of titled individual plots is thrown in.

The country's first privatised Orang Asli regroupment plan was launched in May 1997 with the signing of an agreement between the state government and Taktik Sejati Sdn Bhd. Some 600 Orang Asli from 149 families in the villages of Lenek, Selai, Kemidak, Kudong and Tamok in Segamat district in Johor were to receive assistance in terms of "economic, social, personal, mental and outlook [*sic*] development". A total of 748 hectares of the land was to be developed for agricultural, housing, infrastructure and other purposes. The remaining 290 hectares will be surrendered to the state to be alienated to the

Orang Asli once the agreement lapses on the 92nd month (*Berita Harian* 28-4-97, *New Straits Times* 28-4-97, *The Star* 28-4-97).

However, the Orang Asli involved were not happy with this move. Juki Sungkai, an Orang Asli youth leader had questioned why forest products valued at RM60 million were conceded to the Koperasi Daya Asli Johor Berhad (set up by JHEOA officers mainly) and not to the local community. For this reason alone, Juki added, "The regroupment project in Bekok should be put on hold because the project was given to a company which is not in accordance with the Orang Asli Act" (*Utusan Malaysia* 10.6.97). The older Orang Asli, on the other hand, were not in favour of the project as it would mean that three of the settlements would have to move into the traditional territories of Kemidak and Selai – that is, into a smaller area and in order to only benefit from infrastructure facilities that they are already enjoying in their existing settlements.

Batin Keli Osman of Kampung Lenek disputed the reason, given in the JHEOA working paper during a briefing session, that the village was too far in the interior and so needs to be relocated. "The actual fact is", he said, "our village is located next to the Malay village of Kampung Panca Jaya, about 6 kilometres from the main road. We have easy access to schools, clinics, shops and others, while enjoying the economic stability that comes with cultivating our own land" (*New Straits Times* 12.11.97). He added that it was puzzling that two other kampungs located about 64 kilometres in the interior could be retained, while his should be relocated.

Earlier in the year, the communities had demonstrated against the company that carried out logging activities on their land. Kampung Tamok headman, Batin Aaer, said that while he was happy with the Johor Chief Minister's efforts to bring development to the Orang Asli, he felt the state government should first consult the Orang Asli before making plans for them. "We are not the same Orang Asli community 30 years ago, which was then set in its primitive ways and had rejected development". He added, "the government should not think the Orang Asli were stupid people who did not understand what was good for them" (*New Straits* Times 27.1.97).

The Johor State Government, however, declared that it "would not succumb to the whims of isolated Orang Asli groups who reject projects aimed at providing greater security for them". State Unity and Social Welfare Committee Chairperson, Halimah Mohd Siddique said that it was the state government's prerogative to provide the best for the Orang Asli community and the state would fervently pursue projects to upgrade infrastructure for them, including through organising and restructuring their villages. "Our endeavour is to institutionalise them and make them a part of the state's development process", she added (*New Straits Times* 24.11.97).

Meanwhile in Kampung Buluh Nipis in Pahang, 26 Orang Asli were arrested and detained overnight for refusing to disperse when police instructed them to do so. They had blocked the movement of logging trucks out of their village in order to seek better compensation for the felling of logs in their traditional territories. The logging concession had been given out by the state as a prelude to turning the' logged-over area as a resettlement area for two Orang Asli communities.

Rights to Resources Recognised

Also, in Johor, a major high court decision was handed down in favour of the Orang Asli. The matter involved the Johor State Government's decision to sell water rights to Singapore in 1993. At that time, the State JHEOA Director had contended that the dam to be built would not affect the livelihood of the Orang Asli since "they no longer depend on traditional hunting for a living". And according to the Environmental Impact Assessment (EIA) report, the Sungei Linggiu catchment was totally uninhabited.

Nevertheless, the 225 Jakuns stood their ground and threatened to take legal action. The JHEOA, finally acknowledging their presence, proposed a total one-sum compensation of RM 560,000.00. This works out to RM 2,488.00 per person. In the meantime, the Singapore Government had signed a contract to pay the Johor Government RM 320 million for the water. The Orang Asli took up the case in court and after three years, the judge ruled in their favour. In 1996, the state

government was ordered to pay the Orang Asli a total compensation of RM 26.5 million for loss of income over the next 25 years.

However, it should be noted that the judgement is for the loss of income due to loss of access to the traditional resource base, and *not* for loss of traditional territories. Thus, while Orang Asli resource rights seem to be recognised by the courts, their rights to their traditional lands have not achieved similar recognition.

THAILAND

There have been, over the course of the last decades, many developments in Thailand bringing hardship upon and weakening the rights of the indigenous peoples who are found throughout the country, but predominantly in the north. The difficulties faced by the entire country, stemming from bad environmental management, came to rest upon the shoulders of the tribal people as they now inhabit the last remaining stretches of forested land. The assumption is that the small remaining forested lands must be kept free from human habitation, indeed, that the human occupants must be removed and the wilderness kept in a pristine and isolated state to be used for day excursions by the rich. But it is questionable that this is the most effective conservation strategy that can be adopted. It is easy to demonstrate that this western philosophy of conservation does not apply to Thailand, that far from protecting the valuable and vulnerable natural resources it destroys priceless cultural heritage and removes from the delicate ecosystems the resource management strategies of the people that have protected the forests over centuries.

Economic development has been a focus of the Thai government since 1961, it is a form of development which stressed the increase of agricultural production for export, removing the traditionally sustainable nature of Thai agriculture. This immediately meant that the land under cultivation in Thailand increased dramatically, adding to the already serious deforestation problems. It is worth noting at this point that the new emphasis on surplus production did not have as great an effect in the areas populated by hill tribes. In Mae Hong Son, where the population of hill tribes is estimated at 80%, the forest cover is

significantly greater than in comparable provinces. The environmental damage could not go unchallenged and thus the government did begin to pay attention to the problem. In 1992 the Cabinet declared that all land was to be divided into zones in which the land uses would be controlled. Three classifications were put into place, identifying economic, agricultural and conservation areas.

Threatened to be relocated: Lahu village in Chiang Mai province, North Thailand (Photo: Christian Erni)

Within this declaration were the procedures for increasing the area of conservation land, as the 88 million rai (14.08 mio. ha) target was not complete. These procedures illustrate more clearly than anything else the western image of conservation which has been adopted by the Royal Thai Forestry Department. These procedures are given below as they appear in the Cabinet's declaration of 1992:

238

- Once land has been classified as conservation land all communities already in residence must be, if possible, relocated away from the delicate area.
- Trees planted immediately in all areas of the vacated land.
- If immediate relocation is not possible the government takes control of all the land used by the community and strictly controls any activity upon that land. The community should be convinced to leave the land and when this is achieved trees are to be immediately planted.

This system of regeneration of land shows the view held by the government on conservation land, i.e., that it is pristine forest devoid of all human habitation. But it is worth having a closer look at the reality of land uses through these areas. The conservation area, stated at 88 million rai has actually at most 68 million, as 20 million rai currently have mining concessions granted by the government, the same government which has actually *removed* land titles from long standing communities within the conservation areas to facilitate the declaration and increase of conservation land.

Not only has the government granted mining concessions in the proclaimed ecologically critical conservation class land but in addition the logging, the government sanctioned logging, which took place in Thailand over the last 30 years of increased material prosperity, can be blamed for the devastating environmental damage on Thailand today, damage which culminated with the deadly floods in the south of Thailand in the beginning of the 1990's. This was what had to happen before the government stopped legal logging. Yet despite the obvious culpability of the government in environmental problems such as this the campaign has been to put the blame on the tribal peoples in the north.

The Peoples' Response

The clearest result is the startling growth in people's organisations, the people have come together in highland organisations, lowland organisations and have combined their voices in networks such as the

Northern Farmers Network in order to protest the decisions of the government that were threatening them. The well-known Assembly of the Poor saw huge turn outs of people determined to present their stories and the truth about the situation in Northern Thailand to the government. This massing of support for the poor of the north saw two main responses, the first was the government meeting with delegates on the 17th and 29th of April, 1997, to draft a Community Forest Law which would give the right of resource management of surrounding forest land back to the villages. These meetings were held in Chavalit Yongchaiyudh's time as Prime Minister. With the subsequent changing of the Cabinet the process was slowed. The second apparent result was a strong reaction by the government and green NGOs against the people's organisations. The government has used the hill tribe communities as scapegoats in a number of problems, allegations that when looked at in detail are hardly credible.

Firstly, however, we should look at the accomplishments of the two meetings of the 17th and 29th of April. The draft law as designed by the Cabinet was debated by both the green NGOs, the people's organisation delegates, and the government and a solution, acceptable if not welcomed by all resulted. A committee was established to determine the legitimacy of claims to land ownership and it was accepted that if occupancy could be proved to pre-date the 1993 declaration of 'conservation land' then land rights would be granted. Another meeting was also held during April 22, to which the delegates of the people's organisations were not invited. It was in this meeting that the procedures for the land delineation and titling were drawn up. The mapping was to be done by the military using the satellite mapping techniques and the Royal Thai Forestry Department was made responsible for the process of delineation. Difficulties emerged in the process of delineation, the mapping by the military was slipshod at best and in some cases villages did not even appear on the maps drawn up.

Many times the agreements reached in these two meetings have been in danger, most recently because of a smear campaign run by the government and the green NGO's, many established by retired members of the Thai military and the Thai Forestry Department. The alliances between the government and the NGO's of this kind have quad-

rupled since the rising popularity of the people's organisations from 4 to 25. This has meant that because the green NGOs support the view of forests devoid of human habitation, factionalism has appeared in the NGO community.

This factionalism has made the dirty work of blaming the hill tribes for the environmental damage much easier. In the Doi Inthanon National Park area the fires which have recently broken out were immediately considered the work of the Hmong and Karen hill tribes living there. The ensuing battle to extinguish the fires was attended by thousands of Hmong and Karen people every day and the careful watch to ensure that no more fires could get out of control was taken up by these tribes. However, the actions of these people went largely unnoticed in contrast to the similar actions of a smaller group of lowlanders who also aided in fighting the fires. This type of one sided reporting is incredibly damaging to the standing of the hill tribes in the public eye and this standing, this respect is essential if changes are to be wrought at the policy level.

The incident at Doi Inthanon is not unusual. The well-publicised Salween logging disaster and more recently the reaction to increasing deforestation in Chiang Dao, Chaing Mai Province are also clear examples of the one sided and intentionally misleading reporting of environmental problems in the north. There has emerged recently, however, a recognition in the public sector of the real nature of these problems. Increasingly people are seeing the 'scape goat' allegations for what they are and support is again on the rise for the people's organisations.

However, the process of land demarcation and the granting of land titles upon the results of the demarcation, as agreed to in the April meetings last year, is under greater threat now than ever before. On April 21st the government has debated whether to allow the process to be continued or not. But the decision was delayed. Meanwhile, pressure from lowlanders in the Chomthong district are mounting. With road blockades they both seek to prevent the indigenous villagers from meeting or demonstrating with the government, and to pressure the government into cancelling the agreements made on land titling with the previous government. There is a need now for outside support to

be stepped up to convince the government to mediate between the lowlanders and the indigenous communities. The indigenous people in the mountains fear that the situation may become more tense and turn violent.

CAMBODIA

Although reliable statistics do not exist due to decades of conflicts and war, and the results of the March 1998 census, the first in 30 years in Cambodia, are not yet published, the Royal Government of Cambodia reported a total number of 309,254 ethnic minority people, belonging to 39 different groups and constituting 3.6% of Cambodia's population. Of these, the indigenous peoples, also referred to as Highland Peoples, Khmer Loeu, Hill Tribes or Montagnards, make up somewhat less than a third, or about 1% of Cambodia's population. They are mostly living in the north-eastern provinces of Ratanakiri, Mondulkiri, Stoeung Treng and Kratie, but also in Pursat, Koh Kong, Kompong Thom, Kampot, Preah Vihear and Kompong Speu. The main indigenous peoples of the Northeast are the *Tampuan, Kreung, Jarai, Brao, Kachak, Kaveth, Lun, Phnong, Ide, Stieng, Thmon, Kraol, Rahong, Kuy, Tamoan, Mil and Khaonje*. These indigenous peoples' communities and their members, as well as their identity, their cultures and their traditional way of living are seriously at risk.

In the north-eastern province of Ratanakiri, the indigenous peoples form about 85% of the population of 83,000. The province last year still had a forest cover of 70-80%, which however is rapidly declining because of illegal 'anarchic' logging since the violent coup d'etat of early July 1997. Though this fact is disregarded by the Government, the forests of Ratanakiri, as well as those of Stoeung Treng, Kratie and Mondulkiri are the most densely populated forests of the country. The indigenous peoples have lived there since time immemorial and depend largely on the forest for their subsistence, both for practising swidden agriculture and for collecting forest products (limited extraction of wood for local construction, fuelwood, rattan, bamboo, fruits, vegetables, nuts, roots, mushrooms, resin for lighting). All of the indigenous families depend on these forest products for survival, and

only about 30% of the families have a wage-earner. Swidden agriculture, which is the most important (but insufficient on its own) source of subsistence, is mainly practised in younger secondary forest. The gathering of forest products preferrably takes place in areas of primary forest and leaves the big, old and most valuable trees unharmed, for spiritual reasons.

Access to forest land for both agriculture and forest products is crucial for the indigenous communities. Limits to such access and unsustainable exploitation of the forests violate their human rights, such as the right to food, adequate housing, a healthy environment, culture and work. Furthermore the basic rights to life and security are not guaranteed to the members of the indigenous groups, which are faced with intimidation and abuses by the logging companies and their security mechanisms. There seems to be no access to the court (which is not perceived by the indigenous groups as a potential provider of protection against abuses), and the survival of the identity and culture of several groups is at stake.

But Ratanakiri's forests are seriously at risk. Illegal logging, mostly by national military and police as well as Vietnamese nationals, is rampant and threatening the traditional way of life of the indigenous peoples. Loggers are observed to pay money to individual villagers to bring them to valuable timber. They pay between 2,500 and 10,000 riel per tree (an infinitesimal fraction of the international market value), not for the purchase, but to just to keep them silent. In other cases loggers show false papers - but really signed by the district chief - to the villagers, entitling them to cut valuable timber. Around Banlung there is little logging, but to the east there is a lot of transboundary movement of logs into Vietnam. Illegal logging is also going on in some of the 12 provincial (not national) protected areas, just as in Virachey National Park bordering with Laos and Vietnam, and in Lumphat Wildlife Sanctuary. Local sawmills buy trees from the district heads and other officials.

A major issue is the current replacement of the formerly unexploited 1.4 million ha logging concession which belonged to the Indonesian financial concern Macro-Panin. It encompasses the whole central highland region of Ratanakiri in which most of the indigenous groups live,

as well as parts of Kratie and Stoeung Treng. According to the Governor, neither Macro-Panin nor any of the other big forest concessions granted by the Government are legal concessions. The Provincial Authorities and the local population were never officially informed of them, they have never been consulted and environmental and social impact assessments have never taken place. The only current legal concession he knows of in Ratanakiri is the oil palm plantation in O Yadao. However, there has been a well publicized agreement between the Province and Valai, a Vietnamese logging company, which allowed this firm to export logs for one month, between December 5 and 31, 1997, and there is no guarantee that all the wood taken was previously felled timber. On December 16, 1997, the Governor organized a meeting with the NGOs which had expressed their concerns about the logging trucks and the fact that a camera and film of a CARERE (Cambodian Rehabilitation and Reintegration Programme of the UNDP Highland Peoples Programme) staff, which had been filming some of the logging operation, had been confiscated. During the meeting the Governor was very open, informing the NGOs that there had been two old deals and this new one, and that it provided money for 150 km of road repairs in Ratanakiri (from Banlung to each district), 9 border posts with Vietnam, a hostel for Khmer teachers and health workers, and 9 land cruisers for the Governors and some district chiefs.

According to the Governor, the huge Macro-Panin concession was agreed by both Prime Ministers, and then forced upon the Minister of Agriculture, the Chief of the Forestry Department and the CDC for approval. Allegedly, each of the then Prime Ministers, Ranariddh and Hun Sen, would have received 1 Mio. US$ for this deal. The former finance minister Sam Rainsy never got access to the negotiations or the drafts, and neither did Kem Sokha, chairman of the human rights commission of Cambodia's National Assembly. Mok Mareth, the Minister of Environment also has serious objections against the Macro-Panin concession, because parts of it overlap with national protected areas (Viracheay Wildlife Sanctuary and Lumphat National Park).

A study recently undertaken by EEPSEA, An Economic Analysis of Tropical Forest Land Use Options, Ratanakiri Province, Cambodia, calculates the market value of non-timber forest products (NTFP) as

compared to the value of timber extraction. The surprising conclusion is that the NTFP are worth more than twice the timber (1 ha over 90 years: NTFP = 3922 USD / timber = 1697 USD), and that is without counting the costs of logging, which results in loss of watershed and biological diversity, and even in climate change in the case of severe clearance. The current compensation paid by loggers is worth less than 1% of the value of the NTFP per ha. The problem is that the local population has a very weak bargaining position, is economically very vulnerable and has no real access to protection against intimidation or abuses. Another uncounted cost for the country is that heavy exploitation might lead to local insecurity and rebellion, as has happened with indigenous groups in Palawan and Madagascar. EEPSEA recommended the exclusion of customary forest land from any current and future commercial concession, the freezing of all commercial activities, the legal recognition of the Forest Conservation Association, that legal status be given to customary forest lands, the open and comprehensive review of Macro-Panin's management plan and the development of a comprehensive land-use plan for the area, including SIA and EIA.

In Cambodia, the only NGO really monitoring logging operations is Global Witness, a remarkably effective three man organization based in London and regularly travelling to Cambodia. According to local NGOs it may be unreasonable to fight for the preservation of the whole of Ratanakiri as it is, but it must be possible to map the traditional village boundaries, including all land and forest use, and impose that anyone desiring to use land within these boundaries, should comply with the village rules and traditions, whereby recognizing traditional land use does not necessarily imply establishing land ownership. Traditional boundaries could be used to indicate planning units, in which the Government's interests could be linked with those of the local people, and to avoid the risk of individuals selling their lands in disadvantageous deals with outsiders. The lands and forest could thus be jointly managed by the local community and the Government. The focus of the NGO community is thus on community forestry. In one case, six villages have set up a Commune Forest Conservation Association and proposed a set of Regulations to the Provincial Authorities to protect

their forest, which are being considered. The Forestry Chief, the Minister of Environment and the Ratanakiri Governor all strongly support this concept of community forestry, in which the local communities - in coordination with the Provincial authorities - would have the responsibility over the conservation, management and sustainable use of their forest areas. A proposal concerning forest exploitation could contain the concept of labelled or certified timber, guaranteeing that sustainable logging practices were used (and focus more on wood markets that are sensitive to such labelling), the concept of community managed concessions, with low volumes, strict management and maximized efficient use, and the concept of profit-sharing.

LAOS

The Government of Lao People's Democratic Republic is planning for a gradual scrapping of all swidden agriculture in the country. During the national forest conference of July 1 to 3, 1997, it was decided that for 1998 the area under swidden agriculture should be reduced by 25,000 ha Estimates of the total area under swidden agriculture vary between 160,000 and 300,000 ha, the number of families dependent on it between 130,000 and 280,000.

In the provinces the new directives seem to have been over-zealously interpreted. During a journey undertaken over several days in the northern part of the country, only a few newly burnt swiddens on a stretch of three to four hundred kilometres could be detected. Some of the roads travelled were over 2000 meters in altitude, and made it possible to see wide stretches of land. Everywhere swidden agriculture activities have entirely stopped. Cultivators from the Kammu people in a roadless village said they had been compelled to stop cultivating high-land rice, and to grow only irrigated paddy in the lowlands. The Kammu and other indigenous peoples in Laos have no tradition of growing irrigated paddy, and they have traditionally not kept ploughing bullocks or buffaloes. Although some of the village had had access to lowland paddy fields since the 70s, it was evident that the farmers had not yet learnt the techniques for keeping cattle, or the art of grow-

ing paddy. They were apprehensive about the future: Would they be able to survive only with their lowland fields?

Although a broader survey could not be undertaken, observations indicate that these Kammu farmers are no exceptions. Instead of a gradual switch to lowland paddy cultivation, the provincial authorities seem to be enforcing a virtual ban on swidden agriculture. Another observer, who had been witnessing the situation in the southern parts of the country, confirmed this impression. This is highly alarming since it threatens food security, endangers the fragile ethnical balance in the country, and maybe even jeopardises the ecological stability of the entire Mekong basin. It is not known exactly how much of the food grain harvested in the country that is grown in swidden land, but the figure of 15 per cent has been mentioned. In a country barely feeding itself, and with a population just above the minimum calorie requirements, removing fifteen per cent at the margin can have deleterious consequences. A fragile food security can quickly turn into a major food scarcity. As always, lower availability of food grains is likely to hurt the less privileged most. In Laos this is likely to be the land-short groups which are found both in the lowlands, but to a large extent in the highlands where these policies will add to an already ongoing decline in land resources and access.

Laos is one of the few countries in the world where the dominant population is in a minority. Only about forty per cent of the population belongs to the Lao-speaking groups, mainly inhabiting the lowland valley bottoms. The Lao people are traditional paddy growers and cattle keepers. Although they too have a tradition of growing highland paddy, they are likely to be less hurt than other groups. Paradoxically, the so-called minorities, the indigenous highland peoples, are a majority of the country's population, but they are split into an unknown number of groups. Forty to sixty different ethnic groups are figures circulating, but no one has made a reliable ethnographic atlas of the country.

The authorities divide the Lao people into three major groupings. The lowland Lao (Lao Lum) comprise several smaller groups besides the Lao-speaking 'majority'. The midland Lao (Lao Theung) also consist of several groups, of which the Kammu speakers is the biggest.

The highland Lao (Lao Sung) is the final category where the Hmong are the most well-known. Both the Lao Theung and the Lao Sung traditionally depend on swiddens for their food security. Although the Indo-China war brought massive relocation of the population, and although economic development and resettlement policies have triggered a downhill migration stream, hundreds of thousands of Lao farmers, mainly indigenous highland peoples, continue to depend on swidden agriculture for part of their food requirement. These are hurt by the present policies, and since they belong to the minorities, these policies threaten the fragile ethnic balance in the country. At present, it seems, the highland farmers have obeyed dictates from the regime, but when they face difficulties in feeding themselves and their families, their docility is not likely to last.

Theories have been set forward according to which swidden agriculture in the forested areas of the Mekong basin is essential to macro-ecological stability of the whole region. As is well known a forest in ecological climax is a self-contained ecological universe. It exports no nutritional matter downstream. For hundreds of years, a certain percentage of the forested areas of the region have been under swiddens. The rains falling on and the water flow through these areas bring with them a certain amount of eroded material, which has been an essential nutritional input to downstream agriculture. If this input is entirely blocked by a successful ban on swidden agriculture, the lowland paddy cultivation is likely to be affected. Thus, declining yields and increased requirements of chemical fertiliser may be a long-term consequence of an overzealous policy towards swidden agriculture. Thus there are reasons to worry about political development in Laos. Food insecurity, ethnic conflict, and ecological disturbances may be the unintended consequences of the present attitude towards swidden agriculture. There are all reasons for the surrounding world to react.

NAGALAND

Ten Months of Peace in 33 Years

Last year India took a path breaking decision to enter into an unconditional political negotiation with the National Socialist Council of Nagaland (NSCN) which is leading the Naga national resistance movement. The announcement of this decision in March was followed by a Cease-fire agreement from 1st August 1997 between India and NSCN. But with India changing its government frequently there has been little, if any, progress toward opening formal talks. The recent installation of the BJP party led coalition government in India has brought not much hope into the peace process either, given BJP's history of Hindu militancy. In fact there are apprehensions that India's commitment to a negotiated settlement could be derailed.

The Nagas are a Mongoloid people living in the hilly region of mainland Southeast Asia divided by the contemporary India-Burma border. Their highly egalitarian and community living sets them apart from the caste-stratified Hindu society in their neighbourhood. The occupation and partitioning of the Nagas' ancestral domain is a legacy of the British policies of the 19th century. The Nagas maintain that the continued subjugation of their territories violates both international law and the terms of the Nine Points Agreement Hydari Agreement made at the time of India's own independence.

Since the early 1950s, the Indian government has sought to destroy, by military means, the material and spiritual basis of the Naga peoples' independence, at a high cost in human lives and environment. The only other attempt to negotiate a peaceful settlement, started in 1964, broke off in 1967 because India refused to budge from its self-awarded right "to extend its sovereignty over Nagaland".

> "It is obvious that Naga territory in eastern Assam is too small to stand by itself politically and economically. It lies between the two countries, India and China, and part of it consists of rather backward people who require considerable help." Indian leader Nehru wrote to Sakhrie, Secretary Naga National Council in August 1946.

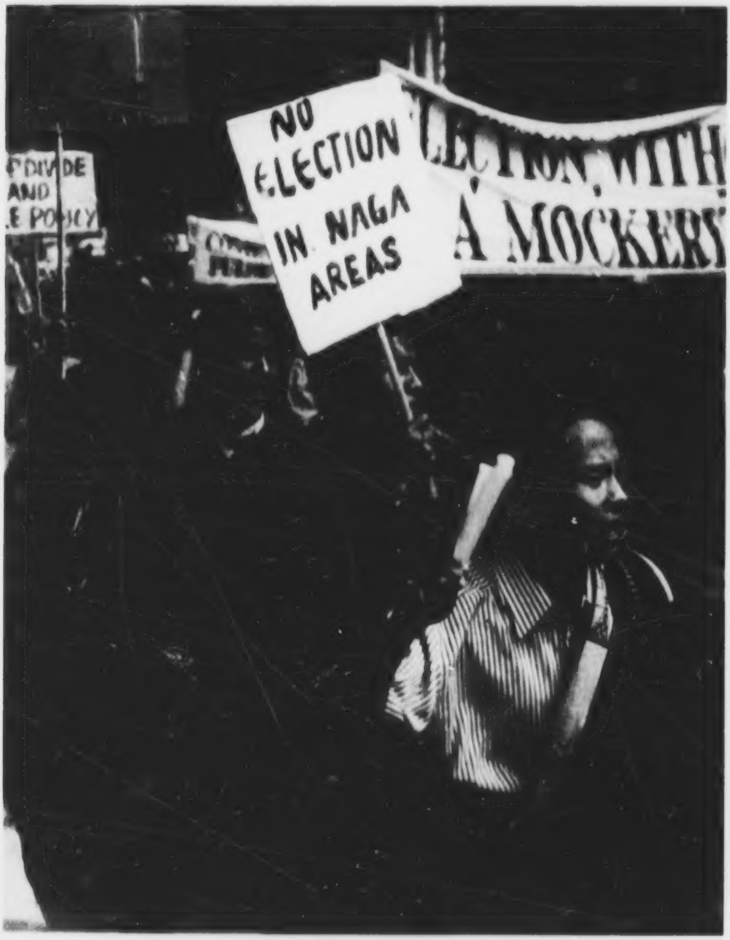
From this kind of pre-independence talk of "helping the Nagas", the same Indian leaders turned to the military to forcibly occupy Nagaland soon after India became independent in 1947. By 1972 India shifted Naga issue from its External Affairs Ministry to Home Ministry. Since then India has been insisting that there will be no peace talk unless the Nagas first accepted the Indian Constitution.

Though badly battered and isolated by India and Burma from the rest of the world, the small Naga people, hardly 3 million, refused to surrender, instead they intensified the resistance movement. In most parts of Nagaland the situation became so bloody that not a week passed without fighting between the Indian occupation forces and the Naga guerrillas or assassination by gunmen operating in league with the Indian Intelligence. In Nagaland state alone 91 persons remained 'untraced' from among the 566 persons arrested by the Indian armed forces during April 4, 1995 - March 22, 1996 (as reported in the regional news paper *Nagaland Post* March 23, 1996).

But it seems things have gone on too long and too far even for the Indian military. Indications of the tired and stressed Indian military going berserk, especially in the past five years, have been reported on many occasions: Shelling with mortar an entire town, such as Kohima, the capital of Nagaland state, on March 5, 1995 by 420 officers and ranks from 16 Rashtriya Rifles; firing indiscriminately and setting fire to the modern market centre Mokochung in Nagaland state by 16 Maratha Light Infantry on December 27, 1994 (reported in *Nagaland Post* issues of December 28, 29, 30, 1994, and March 6, & 7, 1995); or the massacre of innocent children and women, as at Nungleiband Naga village where the 1st JAKLI Indian regiment from Loukoipat Post killed 9 children and women in the morning of October 15, 1997, and over 100 villagers 'went missing'. The Commanding Officer, Col. Anil Gairola, killed himself next day when his gun 'went off by accident', as reported in *The Imphal Free Press*, October 17, 18, 1997.

In this context, the 1997 announcement for the peace talk was seen as a very significant development for peace in the region. The Indian government's decision on the peace talks has been supported by all the major political parties. By not setting any preconditions on the talks, and by agreeing that talks could take place in a neutral country,

the Indian government appears to have accepted the necessity of negotiating with the Nagas on something like a nation to nation basis.



Naga students protesting against elections in Naga areas. Delhi, February 14, 1997 (Photo: Christian Erni)

The Naga public immediately seized the rare peace opportunity to express their strong support for the national resistance movement through public meetings convened by the Hoho Summit (the Federation of Traditional Tribe Councils). They called upon India to demonstrate its genuine commitment to the peace process and not to impose Indian elections in Nagaland during the peace talk. The Naga public, through the Hoho Summit, had expressed that participating in Indian organized elections while the peace process was going on can only undermine the struggle for independence. The extent to which these meetings represented Naga public opinion was conveyed sufficiently when less than 7% of the voters in Nagaland turned out for the Indian election held this February-March.

In the coming months the international community will be watching whether the largest democracy, India, will respond to the Naga question with respect for the expressed opinion of the Naga public or use its military might to continue the forcible occupation of Nagaland and prove that the largest democracy is a sham.

> "Simply because once we were chained together in our slavery, we hope that that period of our misfortune shall not form the important point of historical sequence for our people to quarrel at anytime." Phizo, Naga leader, in a letter written to Governor General of India, from jail November 1948

252

Countries/regions covered in this issue: Bangladesh (Chittagong Hill Tracts), India

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SOUTH ASIA

BANGLADESH

Chittagong Hilltracts

1997 was an eventful year for the Chittagong Hill Tracts in south-eastern Bangladesh. On 2 December 1997 a peace agreement was signed to end two decades of ethnic conflict which has claimed thousands of lives.

Thirteen indigenous peoples including the *Bawm, Chak, Chakma, Kheyang, Khumi, Lushai, Marma, Mro, Pankho, Tangchangya* and *Tripura* live in the Hill Tracts and have done so for centuries. They are known collectively as Jummas, a term coined from *jum*, the swidden cultivation traditionally practised in the Hill Tracts, and number approximately 7-800,000. They have their own traditions and cultures, and own state structures. However, for the past twenty years or so the indigenous Jummas have been subjected to militarization, unlawful killings, murder, rape, arbitrary arrest, detention and other violent tools of suppression. In addition, they have been dispossessed of their traditional lands by some 450,000 state-sponsored settlers from the plains areas who were illegally given their lands (1979-84). As a result, about 56,000 indigenous Jummas took refuge in India. During this period, an indigenous autonomous movement began in the CHT lead by the *Parbatya Chattagram Jana Samhati Samity* - United Peoples' Party of the Chittagong Hill Tracts (PCJSS), and its armed wing the *Shanti Bahini* (Peace Corps).

Previous attempts were made to resolve the conflict. In 1992, another round of negotiations began under the Khaleda Zia Government. On 2 December 1997, after five years of intense discussion and dialogue, the Government of Bangladesh and the PCJSS signed a Peace Agreement.

Peace Agreement

The following is a brief analysis of the salient features of the Accord which provides for the devolution of power through the following:

District Councils: The powers and functions of the existing District Councils are to be expanded and enhanced by amending the relevant laws (*Parbatya Zila Sthanio Parishad Ain 1989* - Hill District Local Government Council Acts 19, 20 and 21 of 1989) for Rangamati, Khagrachari and Bandarban respectively. Under the terms of the Agreement, the Hill District Councils (HDCs) are to be composed of 34 members with quotas for the different indigenous peoples, women (3), and non-indigenous (10). The Councils are to be elected directly from and by the CHT inhabitants for a period of five-years and the chairperson is to be of indigenous origin.

Subjects within the jurisdiction of the HDCs include land, *jum* cultivation, agriculture and forests, education (vocational, primary education in mother tongue, and secondary education), local police, indigenous law and justice, environmental protection and development, and tourism. The HDCs are also empowered with some financial and taxation rights including the right to levy taxes on commodities, land and structures, industries, businesses, fisheries etc. and to receive a portion of royalties on forest and mineral resources. They also have the right to appeal to the Government regarding legislation which may affect the CHT, and the Government may take the appropriate steps to redress the situation.

Another component of the Agreement is the requirement of *prior approval* of the relevant District Council for the settlement, purchase, sale, transfer or lease of any lands within the CHT with the exception of Reserved Forests, the Kaptai Hydro-electric Power Project, Betbunia Earth Satellite Station, state-owned industries, and lands recorded in the name of the Government. However, if one takes into account the amount of land which does not fall within any of the above categories it is estimated that the jurisdiction of the HDCs will extend to approximately 10% of the total land mass of the CHT. A major portion of the CHT is classified as Reserve Forest, and about one-fourth of the agricultural land is submerged under the waters of the Kaptai Lake constructed in 1959-61.

Regional Council: A 22-member Regional Council is to be established in the CHT with 2/3 indigenous representation including its Chairperson. Seven seats are reserved for the non-indigenous CHT

population, and three for women (two indigenous, one non-indigenous). The Regional Council is to be indirectly elected by the District Councils for a five year term, with the chairpersons of the three District Councils as *ex officio* members. The authority of the Council is principally supervisory as it is tasked to monitor and coordinate the work of the District Councils. Other matters within its jurisdiction include the general administration, law and order, indigenous law and social justice, and development including the work of the CHT Development Board and of NGOs. An important element of its power is the prerogative of being consulted prior to the enactment of any legislation relevant to the CHT.

CHT Ministry: According to the terms of the Agreement, a ministry on CHT affairs is to be created headed by an indigenous Minister. It is to be assisted by an Advisory Committee composed of the chairpersons of the Regional Council and the HDCs, members of Parliament from the CHT and three traditional chiefs (Rajas). It is envisaged that the Ministry will coordinate the work of the different ministries, agencies and other institutional bodies involved in CHT matters, and its role in influencing the policy process will be considerable.

As an interim measure Mr. Kalpa Ranjan Chakma, an indigenous MP, has been appointed as Minister without portfolio.

Land Rights: A major issue in the CHT is indigenous land rights. The government- sponsored settlement of an estimated 450,000 plains people to the Hill Tracts has led to conflicting land claims which as yet remain unresolved. The Agreement stipulates that a land survey is to be conducted to examine the land records and rights of ownership and possession of the indigenous peoples, in consultation with the Regional Council and that a Land Commission is to be established to resolve land claims headed by a retired judge. The relevant Chief, Regional Council, civil administration, and chairperson of the concerned HDC are to be members. The basis for the Commission's work will be CHT laws, customs and systems, and its decision is final. The Commission is to be established for an initial period of three years although this may be extended on consultations with the Regional Council.

To date, no steps have been taken to establish the Land Commission which is an integral component of the Peace process in the CHT.

Militarization: The presence of the military in the CHT has been ubiquitous. Estimates indicate that there are as many as 114,500 military personnel in the CHT (indigenous population: 600,000) military and para-military forces, and their direct involvement in human rights abuses has been well documented by United Nations bodies such as the Commission on Human Rights, the Working Group on Indigenous Populations, the Committee on Racial Discrimination etc. and Amnesty International. As per the terms of the Accord, all temporary camps of Army, Ansar and Village Defence Forces are to be gradually withdrawn to their permanent stations although it is not clarified if this is to be within or outside the CHT. The Bangladesh Rifles (BDR) and the permanent cantonments which are in Alikadam, Ruma, Dighinala and one each in the three district headquarters are to remain in the CHT, i.e. six permanent military installations. The armed forces can intervene during law and order situations or for natural disasters at the request of the Regional Council.

Given the past history of grave human rights abuses in the CHT, and the power and influence wielded by the armed forces in civil matters (for instance the chief commander of the army is the chairperson of the CHT Development Board), there are serious concerns as to whether the issue of militarization has been adequately addressed by the Accord. As of this date, there has been no reduction or withdrawal of armed forces from the CHT although the *Shanti Bahini* have deposited their arms and ammunitions (February-March 1998).

Anti-Accord Demonstrations

The CHT Peace Accord was greeted with enthusiasm, both at home and abroad, including the Secretary-General of the United Nations, Mr. Kofi Annan, US President Bill Clinton, the European Union, the British Parliament and the Governments of Australia, Canada, Denmark, and France among others. Prime Minister Sheikh Hasina and the ruling Awami Party have termed the Accord as necessary to protect national interest and to promote racial harmony, and many intellectuals, lawyers, activists etc. from among the majority Bengali popu-

lation have also publicly stated their support for the Agreement. However, the Peace Agreement has met with fierce criticism from opposition political parties, in particular the Bangladesh National Party (BNP) lead by ex-Prime Minister Begum Khaleda Zia. The BNP condemns the accord as unconstitutional and against national integrity. Together with six other political parties, including the fundamentalist Jamaat-i-Islami and the Jatiyo Party (headed by ex-President Ershad), the BNP has been organizing demonstrations, marches, *hartals* (general strikes) etc. to protest the Peace Agreement.

Peace in the CHT: Arms deposit ceremony on 10 February in Khagrachari (Photo Raja Devasish Roy)

The indigenous peoples are extremely pleased at the prospect of peace after more than twenty years of living under military control with rape, killings and arbitrary arrests as every day occurrences. However, a splinter group of the Hill Students Council, the Hill Peoples Council and the Hill Women's Federation oppose the Agreement on the grounds

that it does not give regional autonomy to the CHT and fails to meet the demands for (i) constitutional recognition of the CHT as an indigenous area, (ii) recognition of their traditional land rights and (iii) the withdrawal of the army from the CHT.

CHT Bills

Four bills to provide the enabling legislative framework for the Peace Agreement were introduced in Parliament on 12 April 1998: three bills to amend the District Councils and another to establish the Regional Council. On studying the draft bills, the JSS objected on the grounds that they contained "many inconsistencies and deviations" from the text of the Agreement, and meetings were held between the JSS and the Government to resolve differences (19-21 April).

The passage of the four CHT bills through Parliament was stormy with the Opposition tabling as many as 5000 amendments. The bills were passed in May 1998. However, some discrepancies remain, in particular the one amending the Rangamati District Council Act although the Government has promised to rectify the situation shortly.

Repatriation of Refugees

On 15 February 1994, a process of repatriation of the Jumma refugees began. The refugees returned in batches under the terms of an agreement concluded with the refugee leaders which includes a 20 point benefits component and the restitution of their lands. The last batch of refugees including the Chairman of the Jumma Refugees Welfare Association, Mr. Upendra Lal Chakma, returned to the CHT on 27 February 1998 bringing the total number of repatriated refugees to an estimated 64,520 (12,582 families). However, there are reports that the terms of the agreement have not been met and that the rehabilitation facilities provided to the refugees have not been adequate in terms of food and other essential supplies. In addition, the majority of the repatriated Jummas have not been able to regain their homes and farms which remain under the illegal occupation of the settler families. Effective measures have not been taken to remedy this situation.

Another dimension of this situation is the refusal of district authorities to recognize thousands of refugees who returned to Bandarban

in southern CHT from Mizoram in India. Thus these refugees have not been officially registered as repatriated refugees and cannot avail themselves of any repatriation or rehabilitation assistance. As a result, their situation is serious and there are alarming reports of a food crisis in the CHT. The refugees are facing acute food shortage. At the same time they are suffering from various diseases. If such a situation continues, many refugees will die. Six persons have been reported dead.

A three-member task force for the rehabilitation of the refugees and the internally displaced persons has been established with an indigenous MP as Chairperson (Mr. Dipankar Talukdar), and representatives of the JSS and the Jumma Refugee Welfare Association. It is to be hoped the Task Force will take the necessary measures to alleviate and resolve the situation of the refugees effectively and urgently.

Oil Exploration

On 16 February 1997, United Meridian International Corporation (UMIC) signed a contract with the Government of Bangladesh (Petrobangla) for the exploration and development of the oil and gas potential of the CHT under a Production Sharing Contract for CHT Acreage (Block No. 22). This covers the entire area of the CHT. In early 1998, a team of scientists spent six weeks in the CHT and based on their findings and preliminary geological surveys, there are grounds to believe there may be oil and gas reserves in the CHT. UMIC is currently conducting an in-depth seismic survey expected to be completed by June 1998 to identify specific drilling sites.

The impact of this discovery will have major repercussions on the lives of the indigenous peoples, and with the Peace Agreement indicating the modalities for the participation of the indigenous peoples in the development and management of the CHT and its resources, a new element has been added to the Petrobangla-UMIC contract.

Human Rights

Although the general situation in the CHT has improved considerably since the agreement was signed, there have been a number of interethnic clashes between the settlers and the indigenous peoples with fatal casualties on both sides. The plains settlers feel threatened by the

Peace Agreement and the situation is aggravated by the anti-Peace Agreement activities of the 7-party opposition alliance who are calling for the cancellation of the Agreement.

Some members of the Hill Students Council opposing the Agreement have been arrested. Among them are Sanchoy Chakma and Dhrubojyoti Chakma (18 March 1998), and Tapash Dewan, Prodip Tripura, Ushakanta Chakma and Bakka Chakma a few days later. In addition, the whereabouts of Kalpana Chakma, Organizing Secretary of the Hill Women's Federation who was abducted on 11 June 1996, are as yet unknown although an inquiry commission to investigate the matter has completed its report. The report has not been made public.

Conclusion

The Peace Agreement is the result of intense negotiations carried out during five years, complemented by the experience gained during previous rounds of negotiations. It is an important negotiating tool and provides the framework for dialogue and discussion. After 22 years of violence and tension there exists an opportunity to stabilize the situation in the Hill Tracts and to advance the rights of the indigenous peoples through democratic institutions and with their participation in decision-making processes.

The Peace Agreement is a beginning and not an end. It paves the way for peace and prosperity to return to the Hill Tracts and as Prime Minister Sheikh Hasina envisaged in her speech at the arms deposit ceremony on 10 February in Khagrachari it is hoped that this will usher in a new era in the history of Bangladesh, particularly the Chittagong Hill Tracts. The challenge ahead is to ensure its different components are implemented in a comprehensive manner. As Mr. Jyotirindra Bodhipriya Larma, President of the PCJSS, stated: "It is easy to sign an agreement. It is difficult to implement it."

INDIA

Northeast India

Of the 5653 communities in India, 635 are tribals; and of these about 200 are considered to be found in Northeast India. India's Northeast, consisting of seven states, had a total population of 31, 547,314 in 1991. Of this population, a total number of 8,142,624 Scheduled Tribes and 2,161,161 Scheduled Caste are spread over all the seven states. In terms of geographical area, Arunachal Pradesh covers an area of 83,743 sq. km. followed be Assam 78,438, Meghalaya 22,429, Manipur 22,327, Mizoram 21,327, Nagaland 16,579 and Tripura 10,486 sq. km. Assam has the highest share in the total Scheduled Tribe population of the Northeast (35.30 per cent), followed by Meghalaya (18.64 per cent), Nagaland (13.03 per cent), Tripura (10.48 per cent), Mizoram (8.03 per cent), Manipur (7.76 per cent) and Arunachal Pradesh (6.76 per cent).

In **Arunachal Pradesh**, the indigenous groups are migrants of Tibeto-Burman stock who entered the region many centuries ago. Some of the important tribes are the *Adis (Abors), Akas, Apa Tanis, Daflas, Gallongs, Khamtis, Monpas, Noctes, Sherdukpens, Singphos, Tangsas, Wanchos* and many smaller tribes. After reorganisation of North East India in 1971, the indigenous tribals began to realise the seriousness of transferring several forests tracts which had traditionally belonged to the tribal communities. The transfer of the forests land was effected in 1919. The issue did not invite attention until Arunachal statehood and its interest in retaining this land to facilitate communication network, to encourage settled cultivation and to develop growth centres.

As elsewhere in the Northeast, Arunachal has lately been disturbed by agitation on immigrant issues. The genesis lies in the exodus of Tibetan refugees after the flight of Dalai Lama to India in 1959. Moreover construction of Kaptai dam in Chittagong in 1964 also led to the displacement of *Chakmas*. The Chakmas moved in large numbers to Mizoram, Tripura, and Assam. Then the Central Government decided to repatriate the Chakmas in Arunachal due to its low density of population. The Arunachalese have sought to repatriate these Chakmas from

time to time. The Chakmas now claim citizenship as a matter of right and pose competition for land and employment.

"Quit Arunachal" notices have been issued occasionally by All Arunachal Pradesh Student's Union (AAPSU) declaring Chakmas as unwanted guests. The agitations result in arson, violence, denial of ration card and school admission. Underground movements in Assam and Nagaland even sought to back AAPSU demands. This could change what is still largely a peaceful state. During the second week of December 1997, local underground personnel shot dead police on duty at the check gate near Lakla in Changlang district. The police are now keeping careful watch on underground movements. The number of Chakmas is not large, but in some areas, the Chakmas outnumber the local people who feel threatened. And in a state with a population of 864,558 where outsiders constitute almost a third the situation can become critical. This is exactly what is happening at present in Arunachal Pradesh.

In **Tripura**, *Tripuris* were the original inhabitants of the region. Tripura was ruled by tribal kingdoms for many centuries. A succession of 183 tribal Princes of Tripuris ruled Tripura before they were marginalised and overpowered by immigrants. Tripuris are the dominant indigenous group. Other indigenous peoples include the *Reangs, Jamatias, Naotias, Halam, Kukis, Garos, Mizos* and others. During the19th century, Bengalese were welcomed since Bengali culture and technique of production were considered superior. Moreover, after enactment of Tea Garden Legislation in 1917 and 1925, non-tribals were encouraged to enter Tripura. And after partition, the rate of influx from Bangladesh intensified, and the density of population rose from 49 in 1949 to 196 in 1981. The first opposition to Bengali influx was felt in 1947 and SENG KRAK was formed to safeguard tribal interests. This was soon followed by the formation of Tripura Upajati Juba Samiti (TUJS), All Tripura Tribal Force (ATTF), Tribal National Volunteers (TNV), National Liberation Front of Tripura (NLFT). All this led to tribal underground agitational activities.

After 1960 the displaced position of the indigenous peoples has been revealed in the form of alienation of tribal land when the refu-

gees were rehabilitated in the tribal areas. Tribal reserve constituting 42 per cent of the total territory formed in 1931 and 1941 has been dereserved. Indigenous communities became landless and have been fighting to regain what has been lost. During 1980 pre-poll violence at least 30 people were killed by TNV, and 102 persons in 1988. But after the 1988 elections, TNV men surrendered and turned the outfit into the political party, but soon to be followed by the formation of ATTF. The ATTF called for poll boycott of 1998 General elections. This has had consequences in the form of a series of attacks on Bengali inhabited areas during February, 1998 killing 19 persons. Many Bengalis have left their houses for safety. The situation remains very tense.

The three major indigenous groups of **Meghalaya** are the *Khasis*, *Jaintias* and the *Garos*. Garos are the Tibeto-Burman stock and have been settled in the Garo Hills for the last 400 years. The Khasis uniquely belong to the Mon-Khmer group, and Jaintia is a generic term for Syntengs or Pnars and other sub-groups belonging to the land of 12 Dolois (local governors).

The British consolidation brought with it Bengalis, Nepalis and Marwaris. Meghalaya was peaceful till 1978 when the Khasi Students Union (KSU) began to take an active role in detecting outsiders. They have stated that in Jaintia coal belts, Nepalese and Bangladeshis outnumber the local people. And in the Khasi hills, Khasis have been outnumbered in some localities by outsiders. The KSU estimates that a total of about 300,000 Nepalese and Bangladeshis are in Meghalaya. It calls for identifying the foreigner and deport them.

The growing discontent of Meghalaya is again a result of pressure on land and forests and the related problem of unemployment among educated youth. Throughout Meghalaya, land is owned by the community as a gift from God. The Dolois, Syiems and Nokmas are only agencies for allocating the plots of land for shifting cultivation. Land issue is pivotal in Meghalaya as it is everywhere else. The KSU, Federation of Khasi, Jaintia and Garo Peoples (FKJGP), Achik Liberation Matgrik Army (ALMA), Khasi Hynniewtrep Achik Liberation Council (HALC) are all trying to safeguard indigenous tribal interests. The

HALC organises itself as an insurgent underground movement, and is gradually becoming more and more effective in controlling the course of events in the state. The riot of 1987 caused a number of Nepalis to flee Meghalaya and to seek refuge in Darjeeling and Siliguri. Although stray incidents and bandh calls were common throughout 1997, local politics in recent years prevents them from developing into mass communal violence as it happened in other areas. However, the situation remains very fluid.

The earliest known inhabitants of **Assam** seem to be the *Bodos*. The Bodos or Boros were politically dominant until they were subjugated by the Ahoms in the 13th century. The Ahoms were in turn subjugated by the British and the present Assamese society emerged. The Bodos were marginalised both during the *Ahom* rule and the British rule. They were ultimately left out of the provision of the Fifth and Sixth Schedules of the Constitution of India. The British also placed the Ahoms in a marginal position and retaliated by forming All Assam Ahom Association in 1893. The Ahoms were semi-Buddhist Shan tribals who got themselves sanskritized after the 13th century. In 1909 they were regarded as low Hindus, but lost this status in 1935 when they were eliminated from the list of minority communities. Since 1967 they have been trying to improve their condition by forming All Assam Tai Sabha and later Ahom Tai Mongoliya Rajya Parashad. Recently the Ahoms of upper Assam are trying for Schedule Tribe/Caste identity which the central government has not yet conceded.

Due to influx of immigrants and refugees after Independence, Bodos witnessed land alienation leading to the formation of Bodo Sahitya Sabha in 1952 and Plains Tribals Council of Assam in 1967. All Bodo Students Union (ABSU) and Bodo Peoples Action Committee (BPAC) claimed that over 50,000 hectares of land had been alienated. All Tiwa Students Union also claimed that 3256 acres of their land had passed on to non-tribals and another 24,039 acres acquired as reserved forests, 1327 of this for industry and 19,971 for tea gardens. The Bodo felt a deep sense of discrimination and in March, 1987 both ABSU and BPAC initiated a movement for a separate Bodoland which will include Bodo-Kacharis living in Karbi Anglong. Violence and intimi-

dation escalated with extortion, kidnapping and killings. The Assam Legislature passed the Bodo Autonomous Council (BAC) Act on February 20,1993 to provide maximum autonomy to the Bodos for social, economic, educational, ethnic and cultural advancement.

BAC will consist of a General Council comprising 40 members, 35 elected for five years. This Council will have powers to make by-laws, rules and orders for application within the BAC area on 38 subjects specified as part of the Accord. But the Bodo Accord was not accepted by the Bodo Security Force as it did not fulfil the demand. The BPAC and BVF were later dissolved and a Bodoland People's Party was formed. On December 10,1994 Government notification confirmed extension of Bodoland Autonomous Council over an area of 5186 sq. km. comprising 2750 villages with 29 Assembly constituencies. This excluded a ten kilometre belt along the Bhutan border and Manas reserved forests. The ABSU denounced the notification and demanded inclusion of the entire area up to the international boundary and an additional 515 Bodo villages. The subsequent addition of 112 villages in October, 1995 was again rejected and the impasse continued through 1996 and 1997. The army was called out to help civil administration. The Bodo Security Force changed its name into Bodo Army and has been in contact with ULFA, NSCN(M). Bandhs, killings and explosions continue, and a boycott call to the 1998 General elections. But elections were held on February 16,1998 with merely 45 per cent of votes cast.

Manipur is the oldest state in North East India dating back to 33 A.D. since when 74 Meitei kings ruled the land. *Meiteis* are members of the Tibeto-Burman family. But in the 18th century king Garib Nawaz made vaishnavism the state religion, and the tribal social form became sanskritized. Manipur became a part of India in September 21,1949. Many Meiteis were not satisfied with becoming a part of India and formed the United National Liberation Front (UNLF) to restore Meitei kingdom. And in the wake of the insurgent movement, the army was called in and the application of Armed Forces Special Powers Act resulted in military suppression.

In the tribal dominated hilly regions, the *Kukis*, having stayed for more than 200 years, claim part of the area to be their homeland and refuse to pay house tax to the Naga underground. They thus decided to defend their villages by posting Kuki Guards trained in Myanmar. The situation led to ethnic clashes since 1992. The Kukis now demand the creation of Kukiland and formed the Kuki National Force. *Nagas* also formed the so-called Naga Lim Guard and decided to cleanse the area dominated by them from the Kukis. As a result of ethnic violence, more than 600 have been killed, 6000 houses set ablaze and 30,000 persons rendered homeless. Ethnic clashes may take another turn with the demand of the Nagas to carve out their territory from Manipur state, which will be met with resistance from the Meitei underground UNLF, as well as the prevailing tension between the Kukis and the Paites in the Churachandpur district.

The *Mizos* in **Mizoram** formerly resided in the present Shan state of Myanmar. Economic hardship forced them to move westward to Khampat in Kabaw valley and to the present Mizoram. Weaker groups were driven in different directions. They are *Miris, Hmars, Pangs, Bawmzos, Tangkhuls, Thahdos, and Annals*. The first subjugation of Mizoram was affected under the Chin-Lushai Expedition 1889-90, and marked the final colonisation of Mizoram. But the British refrained from encroaching on the internal administration.

It was, thus, only after India's Independence that the first substantial sign of the process of marginalisation and ethnification was perceived and felt when Mizoram was hit hard by famine in 1959-60. The Assam government did not take serious steps to solve the famine situation, and they thus perceived themselves as being reduced to a marginalised force and being isolated geographically, politically, religiously, and racially. As a result, Mizo National Front (MNF) was formed as a political party in 1961 to revive the integrity and identity of the Mizos, demanding secession from India. The MNF later turned itself into an underground insurgent movement in 1966 which eventually led to the creation of Mizoram state in February 20, 1987. The MNF again turned overground and there was a peaceful situation in

Mizoram since then only to be shadowed by the Chakma problem recently.

The *Chakmas* are immigrants from Bangladesh. The influx of immigrants started even before India's Independence, but became a major problem after partition and displacement of many Chakmas by the construction of Kaptai dam in 1964. They now claim the land they have inhabited as a matter of right and they are now demanding a separate district or Union Territory status. Article 244(2) of the Constitution of India provides for a Sixth Schedule as three parts. Part III includes (1) the Chakma district (2) the Mara district and (3) the Lai district. All the three districts are in south Mizoram. Because of the Constitutional provision, the Chakmas are confident in their claim of territorial possession. On the other hand, the Mizos feel that the Chakmas are encroaching upon their legitimate territory. The problem can give rise to fresh insurgent movement in Mizoram.

There are a good number of *Reang* inhabitants in Mizoram. The Reang insurgent outfits have been intimidating the Reang inhabitants of Mizoram in order to take shelter in Tripura. The intention of insurgent movement was to ultimately carve out a Reang Territory in Tripura. This was done in the later part of 1997, resulting in a great influx of Reang refugees in Tripura. Repatriation of these refugees has become a major problem in both Tripura and Mizoram. The situation was fully explored by the Chakmas, including Chakma Students Association, to play their trump card against the Mizos. In the circumstances, many unreliable stories have been invented and published in national newspapers during 1997. The situation could shatter the peaceful atmosphere in Mizoram.

(On the Naga see paragraphs in chapter Southeast Asia)

Jharkand

Often, cynically, we are prone to observe that Jharkhand is not only rich in natural and mineral resources, but it is also 'rich' in problems and hence also becomes a 'gold mine' for activists and scholars, both those that are well intentioned and those not so well intentioned. Per-

haps, those with a different emphasis may look at or be blind to the problems, and try to find or look at the silver lining amongst the dark clouds. However, for many others or most people in Jharkhand the dark of night never seems to break into the brightness of the daytime.

If one shifts through the mass of problems reported in the newspapers , a certain intensity and pattern appears apparent. For brevity of space we will deal with only a few of them i.e. the issues of:

1. Growing militancy or extremism in Jharkhand;
2. The assault on the forest and environment;
3. The threat of continued industrial exploitation ;
4. The neglect of tribal and regional languages; and
5. The opposition to autonomy or the recognition of Adivasi self-rule.

1. Growing Militancy and Extremism in Jharkhand

Innocents Attacked

In early May 1997, posters appeared in the small north western town of Mandar, in Ranchi District. In the posters the Maoist Communist Centre (M.C.C.) has asked that students be sent voluntarily to the training camps. The posters had also warned that if the children are not sent voiuntarily, then they will be forcibly kidnapped.

On May 12, 1997 about 12 kilometres from Koderma, in the northernmost part of Hazaribagh district near the Footlaiya bridge, the banned M.C.C. killed eleven persons. The militants numbering around 40 to 45 persons were armed and waiting. Around eight in the morning extremists intercepted two vehicles coming towards Koderma and killed the eleven persons.

Internecine Warfare

On June 3, 1997 in broad daylight, in the afternoon, about 200 members of Party Unity surrounded village Madhgari which falls under the jurisdiction of Bhandari police station and murdered 2 supporters of M.C.C. In this instance they also set fire to two houses.

On September 7, 1997 in Amkudar village in Chatra, in northern Jharkhand a Marxist Leninist meeting was turned into a battle ground

when M.C.C. extremists attacked them. Firing began from both sides and in total 40 persons were killed. Some other sources place the death toll as 60. The day before, an attack on the village was anticipated. Amkudar village is considered a stronghold of the M.C.C. Because of the possibility of an attack, the M.L. had taken some riflemen with them. There were about 250 persons in the meeting, including 100 women. Around 4.00 o'clock M.C.C. supporters surrounded the meeting place from all sides. They had ultra-modern weapons with them. Within minutes bullets began to be fired from both sides. M.L. supporters could not continue fighting for long. When the firing stopped 40 persons had been killed. M.C.C. then singled out Laxmi Dangi and chopped off his head and they also shot down Jhaman Singh Bhogta.

State Attacked

On June 16, 1997 at Edla village, under the jurisdiction of Churchu police station, Hazaribagh District, Northern Jharkhand, supporters of the banned organisation M.C.C. assaulted a five member team of the Government of India's Forest and Environment Department. The team members were assaulted with rifle butts and rods and wounded and warned that in the area their government governs and that Government of 'ndia authorities cannot enter without their permission and it is also criminal. They were let go after being warned that if they enter the area once again they will be killed.

On 10 July 1997, at the Bihar Military Police Batallion 2 in village Kari under Manjhioan police station jurisdiction, about five hundred armed members of the banned Party Unity attacked and killed four soldiers. Five other soldiers were also injured. Two civilians were also killed in the cross-fire and two others injured.

On August 17, 1997 armed members of the banned Party Unity killed Mr. Baijnath Mishra, executive engineer of the North Koel reservoir Project or the Kutku dam. Mr.Mishra was killed at night in the headquarters of the project itself. During the night about 250 extremists surrounded the residence of the executive engineer. They broke open the door and took Mr. Mishra along with his cook, guard, driver and valet about 200 kilometres away to the dam site and riddled him with

bullets. They released his staff. In the floods that had preceded the killing, 27 persons were killed and only seven bodies were recovered. The extremists left a note informing that the killing was an outcome of the loss to life and property in the Kutku floods.

The growing tendency of militants to ruthlessly settle scores or rivalries amongst themselves, attacking or killing government personnel and even members of the innocent public is a serious cause of concern. Though it cannot be denied that some of the issues they raise are serious and deserve proper attention.

2. Assault on Forests and Environment

State Becomes an Active Collaborator of Environmental Destruction

In East Singhbhum open illegal mining is being conducted in the forest falling under the jurisdiction of the Forest Department. The orders of the Supreme Court that there shall be no mining in forest lands does not seem to have any effect. Legal mining was stopped but illegal mining has cropped up in its place, and the government does not get any royalties at all also from this. The mining is taking place with the tacit co-operation of the mine Mafia, the Mines Department, Forest Department, police and the village head-man. Precious stones are being extracted with no consideration for the forest and animals. Animals are having to flee from the mining area and hence their natural abodes.

In various village areas of the Rania and Torpa blocks of the Khunti sub-division in Ranchi district, illegal timber trade is going on in a big way. It is already well known that in Tapkara village under Torpa police station illegal furniture building has been going on for a long time. Moreover, on every weekly market on Saturday illegal and expensive wood of trees such as Sakhua, Sagwan, Paesar etc. is sold on a large scale. At any time one can see workers of the Forest Department collecting their dues from the traders. Very often officers from the Forest and Police departments carry off illegal timber to various places in their vehicles.

Apart from the above two examples, the environmental folly and complicity of the State of Bihar was further exposed when the Chandil dam floods caused destruction to homes and property. It is important to remember that the Chandil was built in the teeth of opposition from the local village people and Adivasis. The State had to resort to firing and the killing of a few persons and then only was the dam completed some years ago. Proper resettlement and rehabilitation has not been done.

3. The Threat of Continued Industrial Exploitation

Adivasi life has for a very long time been connected with nature. At the turn of this century about the time of the Adivasi hero Birsa Munda's death, the terrain of Jharkhand was still very much forested. The Adivasis had cleared some lands for agriculture and their need for food, shelter and clothing were largely met by the bounty of the forests and the fruits of their labour on the soil. Outsiders or people from other communities had not as yet made a big influx into the area, hence pressure on land was negligible and the Adivasis had greater economic and political space.

After independence the first Prime Minister's grandiose schemes of so called Nehruvian Socialism began the rapacious assault on Jharkhand for industrial development at the cost of nature and the environment and also consequently the traditional agriculture of the Adivasis and their forest economy. Industrialisation also led to more and more people, mainly from the central and North Bihar caste societies, Bengal and other parts of India to come to Jharkhand. This resulted in the curtailment of political and economic space for the Adivasis, and gradually the outsiders began to have a commanding hold over the economics and politics of the region. Unfortunately, present pressures and trends indicate that this will continue :

On August 6, 1997 the Ranchi Express reported that in the Chotanagpur region of Jharkhand the Bihar Mines development Board will look for diamonds and gold.

On December 14, 1997, in Ranchi, the Vice President of the Jharkhand Area autonomous council (JAAC), Mr. Suraj Mandal in a press conference made an appeal to investors that since law and order

and the power supply have been enhanced, the investors and industrialists should come forth to invest in industry in the region. Earlier in the year Mr. Ratnesh Kumar Jain had said that in the fifty years of Indian independence, industrialisation has not kept pace with what was expected, while population has increased in the region. Ranchi population itself has increased thirty times.

Hence, with the new atmosphere of liberalisation and globalisation, industrialisation it seems will be further attempted. However, there is not much reflection on the part of industrialists and politicians about protecting and improving the traditional agriculture and forest based economy. To the industrial-capitalist class, this may just mean another great opportunity for plunder, while to the Adivasis, particularly from the rural areas, it may mean further displacement and shrinking of their economic and political spaces.

4. Neglect of Tribal and Regional Languages

In Jharkhand, quite a few Adivasi languages and a few regional languages are used by the people in their daily conversation and communications with each other. However, there exists an attitude of double standards in practise to their legitimate due and recognition, in spite of good laws to the contrary.

Maithili is a language spoken in a particular area in North Bihar. It has been associated with a people known as Maithili Brahmins. In August 1997, the Patna High Court passed a decision wherein it held that the decision of the Bihar Government to remove Maithili from the list of the Bihar Public Service Commission's optional list of subjects as unmotivated and arbitrary and ordered that it withdraw the notification issued for its removal and again list Maithili as a subject.

On September 21, 1997 the Ranchi University Syndicate took an important decision that in the degree examinations apart from English and Hindi, Urdu and Bangla can also be used.

On the other hand Adivasi languages are not being given their due even at the primary level. Since August 13, 1953, the Government of Bihar in its Education Department Resolutions No. 695 E. R. of Ranchi held that "...The medium of instruction in non language subjects shall be the mother-tongue ..." till class eight, and that the "...languages to

be accepted as mother-tongue for the purposes of this resolution will be Hindi, Bengali, Oriya, Urdu, Maithili, Santhali, Oraon, Ho, Mundari and for Anglo-Indian pupils, English". In 1956, education in mother-tongues and its promotion received Constitutional endorsement. However, till date not a single government school in Bihar conducts primary education in Adivasi mother-tongues. The Christian Missions or Church who run literally thousands of schools in the region and whose membership is largely Adivasi are also unbothered. This state of affairs also indicates the lack of concern or biases of the Church Au-

Munda youth, Bihar, Jharkhand (Photo: Inger Sjorslev)

thorities regarding Adivasi tongues in primary education, even though the foreign missionaries from Belgium, Ireland, England, Germany etc. have long since virtually left. A singular effort is being made on the part of Sr. Anita and her co-workers at the Holy Cross School, Ranchi, to impart some instructions in the Khurukh Adivasi language in the lower classes.

Further a writ filed in the Ranchi Bench of the Patna High Court, which had as its prayer that a government notification for recruitment of primary teachers be quashed and be appropriately amended because it did not include recognised Adivasi languages in the examination or recruitment criteria, was recently dismissed on the grounds that "[it] is well settled that the High Court cannot exercise its power under Article 226 and 227 of the Constitution on the basis of an advertisement in a daily news-paper. In our view the petitioner should have been more careful in moving this court in Public Interest Litigation." That matter was not considered on its merits or the law points averred to. Hence on Adivasi languages in Jharkhand it could be said that the situation is in a totally unjust and unsatisfactory position.

5. The Opposition to Autonomy or Adivasi Self-rule

By the Jharkhand Area Autonomous Council Act, 1994, the Legislature of the State of Bihar enacted for its 18 southern and contiguous districts an Autonomous Council for the "... all round accelerated development of the Jharkhand Area". The area covers the districts of Bokaro, Chatra, Deoghar, Dumka, Dhanbad, Garhawa, Giridih, Godda, Gumla, Hazaribagh, Kodarma, Lohardaga, Pakur, Palamau, Ranchi, Sahebganj, Singhbhum (East) and Singhbhum (West) or an area of around 87,000 square kilometres. Under it fall 14 Parliamentary constituencies and 81 State Legislative Assembly or Member of Legislative Assembly (MLA) constituencies. This is the normal two tier Constitutional pattern for all states in India. However, under the recent JAAC Act arrangement the 81 MLA constituencies will be split into two and hence there will be 162 "... directly elected..." Councillors, and that apart, not more than "...18 nominated members".

The initial Interim Executive Council, the members of which were all nominated, was initially formed in August 1995 for a maximum of six months till elections took place. However, till now there have been about half a dozen extensions and the elections don't seem to be taking place. Further, as a recognition of the fact that this has been traditionally and historically an Adivasi area, the Chairperson of the JAAC has to be a member of the Scheduled Tribes.

Further, on December 24, 1996, The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, received the assent of the President of India. It is to be noted that the Scheduled Areas are what have been traditionally and historically indigenous peoples' or Scheduled Tribes' lands and territories and they have been earmarked as Scheduled Areas. The Act has to do with Panchayats or essentially village or rural governance. Under this new Act the State governments are instructed that any law made in furtherance of this Act or for the governance of the rural Scheduled Areas must take into account or "...shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources", and that "a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs". And "...every Gram Sabha [village council] shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution".

Other provisions that are also couched in favour of Adivasis are the sections on election which, interpreted accordingly, stipulate that there shall be reservation of seats at each stage of the Panchayat electoral system for those "... for whom reservation is sought to be given under Part Ix of the Constitution or the Scheduled Castes and Scheduled Tribes. Further ... that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes".

These provisions, especially the ones conferring 'positive discrimination' - or rather compensatory discrimination for historical misdeeds of the dominant communities - have become a cause for grievance for the non- Adivasis or dominant communities. Some of these communities have been living side by side with the Adivasis, and some of them are very similar or could be classified as Adivasis, but were left out of the official government nomenclature of 'Scheduled Tribes'. A generic term 'Sadans' is sought to be given or constructed for them, notwithstanding their many inner contradictions, and also the similarity or likeness of quite a few of them to the aboriginal communities. To the Adivasi, the danger about the 'Sadan' identity is that, not being

a cohesive identity/construct, many groups/persons who are not long-standing and traditional Jharkhandi communities or peoples are attempting to climb onto the "Sadan identity". An important point to note is that many of the 'Sadan' communities are comfortable with imposed Panchayat structures, perhaps having lost or forgotten their self-rule traditions .

The Adivasis on the other hand still claim and retain traditional self-rule and governance systems and their claim is that the government give them due recognition. The present position is that throughout the year, Adivasis have demonstrated for the implementation of the 1996 Act and also set up or revived their traditional systems in the rural areas, notwithstanding opposition from the 'Sadans'. On the other hand, the state governments that had a directive by the 1996 Central Act to implement the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, have not done so. It is a further example of how the state controlled by the dominant society withholds recognition of Adivasi rights, even if upheld by their own laws. Although some fully oppose it and although many if not most Adivasis have reservations about the 1996 Central Act, most for practical reasons go along with it.

With respect to the five issues we have mentioned above, the role of the state can be summarized as follows:

- With the growing militancy or extremism, the life and property of rural people including Adivasis are under threat. But the State is indicating its incapability and buckling under assault.
- Continued industrial exploitation and the assault on forest go hand in hand. In these instances the State preys upon the Adivasis by attacking their lands - that is their forests, hills, valleys, waters and the total natural environment. Ownership and control of land and territories also are facets of economic and political power and by assaulting their lands, the State attacks the basis of their economy and power.
- With the neglect of tribal languages, the State aspires to culturally and socially emasculate Adivasi, to have them subdued by the dominant cultures.

- And by not genuinely recognizing the Adivasis ' traditional self-governing systems and by not being serious about devolving autonomy, the Indian State and Society indicates a racist and imperialist attitude.

Uttar Pradesh

Van Gujjar Case brought to the National Human Rights Commission
The Van Gujjar indigenous people is a semi-nomadic tribe living in the forests of the low lying Shiwalik range during the winter and in the high altitude Himalayan pasture lands during the summer. (See reports in *The Indigenous World* 1994-95, 1995-96, 1996-97.) They are increasingly showing positive signs of empowerment. Rather than becoming victims of faulty conservation policies the Van Gujjars have decided to stand their ground and take up cudgels against the forest authorities. Not only have they refused to leave their centuries old forest homes, which the forest authorities were forcing them to do in order to convert their homelands into a National Park; they have even drawn up an elaborate plan of Community Forest Management in which they would be the main actors in the protection and management of the forests they live in. Their plan encompasses other communities who are also partially dependent on the forests the Van Gujjars live in. The role of the government has been envisaged to be that of facilitators. They were helped in giving shape to the plan by the Rural Litigation and Entitlement Kendra (RLEK), an NGO working in the area. The book containing the plan was released on 16 August, 1997, by the then Minister of Environment and Forests, Government of India.

The plan is in keeping with the New Forest Policy, 1988, of the Government of India and also shows the way to the government to keep its commitments to the ILO and the Rio Conference. However, it has created quite a stir amongst the forest bureaucracy who feel that its acceptance would vastly curtail their own powers which they have been exercising with impunity ever since the erstwhile British regime created the forest department. This has apparently compelled them to use unduly harsh methods, including coercion and threats to relocate

the community outside of the forests so that they no longer remain forest dwellers.

Unlike in the past when the Van Gujjars could only plead and pray to the forest authorities for their rights, this time they have taken the matter up with the National Human Rights Commission (NHRC). The NHRC has taken cognisance of this and the case is presently under its active consideration. The Van Gujjars have boldly submitted affidavits to the Commission that speak out the injustices done to them by the forest authorities and how their human rights are being violated. They have countered the charges levied against them by the forest authorities and are intent on exposing the misinformation and untruths that are spread about them.

Asserting their rights: Van Gujjar in Uttar Pradesh, India (Photo: Christian Erni)

South India

The Palani Cardamom Hills, an extension of the Western Ghats into the heartland of **Tamilnadu**, is the homeland of *Pulayar* and *Paliyar*. The Pulayar, who were until 1976 classified as Scheduled Tribe, were reclassified as Scheduled Caste which they resent as they and the Paliyar consider Pulayar as Adivasis. In the Kodaikanal Taluk of Dindigul District there are about 10,000 people divided almost equally between them. With the British identifying Kodaikanal for its cool climate and with the introduction of coffee and cardamom on a large scale, waves of migration commenced. Kodaikanal today has become a major tourist spot of south India. The Adivasis, who were practising shifting cultivation, took to settled agriculture, got systematically pushed out to become small and marginal farmers taking up wage labour on the plantation and farms of the migrants. The declaration of large areas as forests while ignoring the resident Adivasis communities by the Revenue Department, just like everywhere in India, ensured that their rights were denied.

A large tract on the borders of the Reserved Forest, both inside and outside, of some 250 acres in K.C Patti Panchayat was traditionally cultivated by the Pulayars of Kallakinaru Village, the Paliyars of Koramkombu in Kodaikanal Taluk and the Pulayars of the adjacent Dindigul Taluk. Since the later part of the 1970s, the regular harassment of the forest department pushed out the people though they continued to cultivate the land despite continued harassment. Some even managed to get enjoyment rights, though not ownership rights, in the 1980s. In 1990 the Palani Malai Adivasi Viduthalai Iyakkam (Palani Hills Adivasi Liberation Movement) came into existence. Since 1991, the attempts to take over this land by the Forest Department intensified. The Revenue Department refused to accept the annual fee for continued enjoyment of the land. Three Paliya houses were set ablaze by the forest officials in Koramkombu and two people were arrested on false cases in Kallakinaru in 1996.

On July 29, 1996 the forest officials destroyed 60 acres of coffee, oranges, bananas, ginger and bean crops worth over 100,000 Rupees. Crops in another five acres of land in the nearby Nalloorkadu worth

Rs. 500,000 were destroyed the next day. The movement blockaded the Battalagundu - Panrimalai Road at Thadiankudisai. The Revenue Divisional Officer of Kodaikanal came to hold talks, agreed that the land would be resurveyed to determine whether the lands belong to the forest department or the revenue department on August 5, 1996. But the next day the forest officials prevented the survey. The matter remained unresolved.

Around this time, as part of the spreading struggle for self-rule launched by the National Front for Adivasi Self-Rule, the Tamilnadu Front for Adivasi Self-rule came into existence with the initiative of the Adivasi movement of Palani Hills. Enthused by this development, the people retook their lands at Kallakinar and adjacent Nallorkadu in October, 1997 and commenced clearing the land for cultivation and also put up houses. On September 22, 1997 an attempt to destroy two houses by the forest guard was thwarted by the people. At about 12 p.m. on September 26, 31 forest officials with about 20 hired labourers led by the Forest Ranger destroyed 32 houses including utensils worth Rs.79,000 and also beat up two Adivasis. By about 1 p.m. about 200 people from the nearby villages of Nallorkadu, Kadaiyamalai, Kandipuram, Paraipatti, Kavuchikombu, Pallathuvalavu, Manravayal, Moolayaru, Vellarikarai etc. rushed to the assistance of Kallakinaru. The forest officials, surrounded by the villagers, withdrew hastily. The people declared that they shall not tolerate the vandalism of the forest officials. The hired labourers pleaded innocence that they were hired under the guise of forest related work by the officials. A complaint against the forest officials was registered in Thandikudi police station.

Then came a period when the forest officials spread information of a massive crackdown against the people. The people were prepared to face them with chillie powder, branches of thorny bushes etc. Besides, Adivasis from other villages took turns to be present on the disputed land at night. The uneasy calm prevailed till November, 1997. On November 4 at 1 p.m. about 500 forest officials and about 50 hired men under the leadership of the District Forest Officer, the Revenue Divisional Officer, the Tahsildar and other officials descended on Kallakinar by mid-day, set fire to 32 houses and attacked the people with rifle butts abusing them and managed to arrest 17 men who were

taken to Thadiankudisai forest office. The women rushed there demanding the release of the men, but were brutally attacked and abused. A complaint against these officials and their men under various provisions including the powerful Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 were registered by the sympathetic police official who was immediately transferred for having registered an offence under this provision. However, in total violation of the law itself, the police is yet to act on the complaint, resorting to delay tactics.

The arrested were released on bail. The expected outcome of scaring away the people from the land failed and the lands continue to be held by the people. One of the key reasons for this brave resistance was the role and leadership of Adivasi women who, despite brutalities and injuries, stood up firmly and courageously. The government too had not expected such stiff resistance and for the time they have backed out. This success has led to a spate of incidents where smaller pieces of lands that were alienated were forcibly retaken.

In the adjacent state of **Kerala**, the putting up of a board on August 15, 1997 (Independence Day) at Panavalli in Wayanad District (where the Adivasis successfully took over land three years ago after stiff battles with the forest officials under the leadership of an Adiya Adivasi woman C.K.Janu, see *Indigenous World* 1995-96), declaring the beginning of self-rule restricting entry of outsiders without the permission of the village leader, led to a hue and cry by the government and various political parties. This was followed by threats by the migrants and was seen as a prelude to similar actions spreading to other Adivasi villages. However, in order to defuse the tension, the forest department quietly took away the 'offending' board. However, the self-rule campaign has further spread demanding the notification of Adivasi villages under the Fifth Schedule.

On December 14, 1997 in yet another Adivasi belt of Attappadi in Palakkad District of Kerala, the Adivasis burnt title deeds to lands presented to some Adivasis by the Chief Minister two months earlier, resenting the fact that the title deed was given only to a very small portion of land they are actually enjoying. Organised by Girijan Sevak

Samithy, the development plan document of the government was also burnt in protest.

The amendment to the Kerala Scheduled Tribes Act (Restriction on Transfer of Lands and Restoration of Alienated Lands) of 1975, which was passed by the Kerala Assembly in September 23, 1996 and vehemently opposed by the Adivasi (see *Indigenous World 1996-97*) was finally returned by the President of India without his assent. In effect, the amendment has been rejected by the President as untenable and the original Act holds if the Kerala Assembly does not venture to pass yet another amendment. The High Court which had given time till December 23, 1997 to actually ensure that alienated lands are retrieved and returned to the Adivasis has further granted time to the Government and the case is to come up for hearing in May 1998. Naturally, further delay in restoring alienated lands will only intensify the bitterness and anger of the Adivasis further with the Government continuing to subvert the Constitution.

During the recent Parliamentary elections, despite the demands to notify the Adivasi hamlets or habitations under the Fifth Schedule, this demand found no place in the promises of the political parties in the three southern states of Kerala, Tamilnadu and Karnataka.

Countries/regions covered in this issue: Mali, Equatorial Africa, Kenya, Tanzania, Botswana, Namibia, South Africa

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AFRICA

MALI

Refugees Returned Home

After a long period of resistance and hesitation to the repatriation, the majority of the *Tuareg* refugees returned to Mali during 1997. Following the outbreak of the Tuareg rebellion in June 1990 about 150,000 Tuareg and Moor fled their country. The four asylum countries were Algeria, Burkina Faso, Mauritania and Niger. The UNHCR (United Nations High Commissioner for Refugees) closed it's offices down in Mauritania in June 1997 and in Burkina Faso in January 1998. About 3000 refugees are still in Algeria and about 8000 in Niger but they will probably return during 1998. A small number of refugees have chosen to remain and settle down in the asylum countries. Even though the refugees were encouraged by state representatives visiting their sites in the asylum countries to return and participate in the elections, a large part of the refugees preferred to wait and follow the development from abroad. The elections didn't go smoothly but neither did the situation explode. Many refugees returned after the elections. A long discussed amnesty law was adopted by the parliament in 1997. It was an initiative that the refugees didn't appreciate very much. In their point of view, all who had caused deaths of civilians should be judged, a Tuareg rebel as well as a national soldier.

A Brief Outline of the Tuareg Rebellion

After six years of conflict, the Tuareg rebellion ended officially in March 1996 with the ceremony "Flamme de la Paix" in Timbuktu during which 3000 weapons were burnt. The causes of the conflict are many and complex. The North of Mali in general and the Tuareg nomad population in particular had suffered from negligence and exclusion on the part of the state authorities. In the beginning of the rebellion, the military actions of the Tuareg rebels were morally supported by the civilian population in the North. This was due to an overall

dissatisfaction with the military dictator General Moussa Traoré. In March 1991 he was overthrown by a coup d'Etat after months of public demonstrations in the southern region of the country and the Tuareg rebellion in the northern region. A unified front of the main Tuareg and Moor rebel movements signed a peace treaty, named "Pacte National" with the transition government in April 1992. The first democratically elected government in Mali's history with the president Alpha Konaré was installed the same year. The new authorities officially agreed with the peace treaty. But the conflict continued. The new democratic state faced many challenges and it had difficulties controlling the military who had been in power for 23 years (1968-1991).

In 1994 the conflict began to be fought on an ethnic basis between on the one side Tuareg- and Moor armed movements and on the other a Songhay armed movement established to defend the sedentary population. The latter movement was strongly influenced by the military and many of its members were from the national army. A reconciliation work began in 1995 initiated by the northern population itself as well as NGOs and the authorities. The different ethnic groups have co-existed for centuries benefitting from each other's differences in a variety of economic and cultural relations. Probably because of this common history the reconciliation has succeeded in the North of Mali.

The Tuareg in Exile

One way to measure that peace is becoming more consolidated is that the thousands of Tuareg and Moor refugees finally decided to return to their country of origin. During the exile they lived to a certain degree a different life than the one they knew in Mali. The majority of the refugees benefited from different kinds of goods (food and domestic items) and integration activities. Food has been distributed in periods at the refugee sites. School and health facilities have been available at some of the sites; a situation which was actually quite new for many of the refugees. Many Tuareg children went to school for the first time in the asylum countries. (This is particularly important as some Tuareg think that one reason for the rebellion was the lack of integration of Tuareg children in the school system). Associations

among the refugee women were established and different kinds of small enterprise projects were initiated for their benefit. But in general, they didn't change their nomadic way of life. In for example Burkina Faso a number of refugees had been able to bring their animals with them and they continued to some degree to live as nomads. They were not installed in closed camps as in other refugee situations.

The internal power relations of the Tuareg community have also been undergoing changes. Primarily because fractions had been split and because a certain level of education (the ability to speak, understand and write French) became a very important tool in the relations with local authorities in the asylum countries as well as with the organisations working with the refugees. It meant that persons who never had been leaders in Mali got a strong leader position in the asylum countries. The possible implications of this development are not immediately assessable.

The Reintegration in the North of Mali

UNHCR is present in the North of Mali and is in charge of facilitating the social and economic reintegration of the now returned Tuareg- and Moor refugees. UNHCR estimates that about 150,000 will return to Mali. The estimated total number of beneficiaries from the activities of the UNHCR in the North of Mali is 300,000. This is due to the fact that all the project activities not only are to the benefit of the returned population but of the communities as a whole. The construction and rehabilitation of wells, water pumps, schools, small enterprise projects are also to the advantage of the internally displaced people and the people who never fled.

Of interest is that many returnees chose new sites to begin their new life in the North of Mali. Sites where they had never lived and where actually nobody had ever lived. This choice is partly due to an overpopulation and a degradation of the natural resources at the sites where they used to live. Another particularity is that some groups of returnees have chosen a site close to the border with the asylum country. It could be described as a site of observation where they will stay until they feel more confident in the stability of the peace. This makes

the whole reintegration process a very big challenge to all the actors who are participating including the state. It will not be possible to construct wells, schools and health clinics at every site chosen due to lack of financial resources. The number of sites goes up to about 200.

Land tenure reforms represent another challenge to the state. A certain number of the refugees had conventions dating back from the colonial period which stated the right to exploit well defined grazing areas with herds of animals.

The Elections and the Peace Process in the North of Mali

Parliamentary elections were held in April but they were contested by everybody even by the party in power ADEMA. Subsequently, they were annulled by the constitutional court. The presidential election in May was carried out with only two candidates. Eight other candidates from the opposition refused to participate in protest over the way the parliamentary elections had been carried out. Alpha Konaré, president since 1992, was re-elected with a big majority and a level of participation of less than 30%. Many incidents happened and many demonstrations took place. This led to the arrest of five politicians from the opposition in June. They were accused among other things of disturbance of the public order. It was in this atmosphere that the parliamentary elections were held for the second time. ADEMA won an overwhelming victory with 130 out of 147 seats in total. The demonstrations continued and several confrontations between the demonstrators and police forces occurred. In August a policeman was killed during a demonstration. A group of ten politicians from the opposition were arrested afterwards. They were accused of being indirectly responsible for the murder. With their arrest, the opposition lost its capacity to mobilise. Despite the way the elections took place, they didn't have any direct influence on the peace process. In 1998, local elections will be held at the commune level.

In general there is peace in northern Mali but incidents of hold-ups and car thefts have been a reality in 1997 and this has influenced the peace- and reintegration process particularly in the regions of Gao and Kidal. In Kidal violent confrontations between two Tuareg factions

have occurred as well. The two factions were organised in two different armed movements during the rebellion and at one point they actually fought against each other. One reason for the recent confrontations should be that young people (ex-rebels) only have been demobilised and not yet been reintegrated into economic activities. It is in this region of the country as well that the state administration hasn't been fully extended yet. The number of demobilised soldiers has increased but the 12,000 previewed in the "Pacte National" haven't been reached yet. 8,500 demobilised soldiers have received their gratuity (an amount of money from 55,000 to 105,000 FCFA depending on their grade). But this demobilisation doesn't necessarily imply that the soldiers will be given the opportunity to engage in economic activities.

Two other worrying events are the presumable creation of a new armed movement ("Union pour l'Unité du Sahara Central") by two former leaders of the ex-movement and the very unstable situation in northern Niger. Fortunately it seems that it will not have the repercussions in northern Mali that it did in 1990.

The presence of the UNHCR in the North of Mali as well as its activities expire in the end of 1998. It is one of the few organisations present in this not easily accessible region. Hopefully, other organisations with a genuine development approach will enter and continue the necessary work to the benefit of the total population of the North of Mali.

EQUATORIAL AFRICA

The Twa of Rwanda

Concerning the present situation of the *Twa* in Rwanda, there has been no significant change to their marginalised status, poverty and lack of resources. The Central Government is apparently supporting local governments in attempts at fair and ethically neutral redistribution of land, which is apparently working reasonably well in some areas and is essentially a social rather than a legal process, although the final agreement between the landowner and government is legally ratified. However, the Twa are fearful of entering the process of land distribu-

tion by putting their names on a list, and are so not benefiting from this initiative.

The Twa organisations are concerned about the situation of Twa prisoners, who lack legal assistance. The Twa organisations have been successful in getting funds from donor agencies to distribute seeds, agricultural implements and materials for education (notebooks, school uniforms) to Twa in prefectures closest to Kigali.

Twa children watching a dance at Runda, Kigali (Fotos: Dorothy Jackson)

The co-ordinating body for Twa organisations, CAURWA (Communauté des Autochtones Rwandais) recently hosted a presentation of Twa potters at a National Commercial Exhibition in Kigali. Pottery is exclusively associated with Twa people in Rwanda, and was the main means of livelihood of Twa people outside the forest until the advent of cheaper, mass-produced plastic goods. The exhibition helped to raise the profile of Twa issues and needs, and it seems that the UN High Commission for Human Rights will help them set up a permanent

exhibition/market site in Kigali (their last site outside the Hotel Kivoyu was destroyed by the authorities). CAURWA has also established a small goat 'bank' for Twa families in the area around Kigali. Seven kids have been born so far, and the families are very positive about the project.

Although the situation of Twa people in Rwanda and Burundi is still a major cause for concern, most of the agencies working in Kigali are now aware of the existence of Twa and their particular vulnerability, and some are doing project work to assist Twa more-or-less directly.

A Twa person will shortly be taking up an internship at Secretariat of the International Alliance of Indigenous and Tribal Peoples of the Tropical Forests. The internship enables indigenous representatives to learn about international institutions, advocacy and campaigning, gaining valuable skills which will benefit the intern's organisation and region when he or she returns home.

An international group of donors and support agencies working with Twa people has been formed to improve information-sharing and better coordination of support to Twa people. The lead agency in the North is the Forest Peoples Programme, based in the UK. In Rwanda, the lead agency is CAURWA which acts as the coordinating body for Twa organisations and will liaise with donors and agencies in Rwanda to improve coordination locally.

Pygmies Near Kahuzi-Biega National Park Threatened

The Kahuzi-Biega forest is part of the Equatorial forest of Central Africa. It is located in South Kivu, in the east of the Democratic Republic of Congo, Kabare territory, some 25 km west of the town of Bukavu. The Pygmies were the first inhabitants of the Kahuzi-Biega forest, which was declared a National Park/patrimony in 1970. The Congolese government at that time forcibly expelled all the Pygmies living in the forest without any remuneration or territorial compensation. This is how these destitute pygmies came to settle in villages bordering the Park (Muyange, Cibuga, Combo, Kamakome, Mulangaala, Tshibati, Lushasha, Buhama and Muziku).

During the Rwanda conflict, Kivu province received thousands of refugees from Rwanda. Some of these refugees were able to return to their home during the liberation war. But refugees belonging to the Rwandese militia (INTERAHAMWE) and the ex-army forces of Rwanda (FAR) of President Habyarimana's regime remained and settled in the interior of the Kahuzi-Biega Park. Here they allied themselves with an opposition movement against the Tutsi called the MAI-MAI. This movement is against the present regime which has installed the so-called Banyamulenge Tutsi in public affairs and given them posts of responsibilities in the central government as well as at provincial level. Another mission of the MAI-MAI is to have the Rwandese militia and the FAR return to Rwanda. As the two movements do not have any external funding, they have become a group of bandits. Thus, in order to get food and other necessities, they have sacked and burned the small huts of the Pygmies living on the outskirts of the Park. This looting and aggression in turn provoked a massive migration of the pygmies away towards Bantu villages located at some distance from the Park. Here, more than 250 Pygmy families are now facing a very difficult situation as they are no longer in their own homes.

Certain authorities accuse the Pygmies of being members of the MAI-MAI because they live very close to the forest. Some 200 Pygmy families have benefited from assistance - food and other items - through the International Red Cross, but then the military authorities interfered, claiming that this action helps the MAI-MAI. Help is urgently needed. However, international humanitarian organisations such as UNHCR, CARITAS, ICR are not allowed to work in the province, as opposed to development organisations such as UNICEF, OXFAM, SAVE THE CHILDREN and local organisations.

Mobilisation of 'Pygmy' Groups in Cameroon

In Cameroon, CODEBABIK (Comité de Développement des Bakola/Bagyeli des Arrondissements de Bipindi et Kribi) represents approximately 600 *Bakola* people (115 families in 25 camps). It aims to help Bakola people determine their own development and improvement in living conditions, to counter the marginalisation and prejudice experi-

enced by the Bakola people, to protect their lands and to make their voice heard so that they are accepted as full citizens of Cameroon. CODEBABIK's work focuses on raising awareness at community level, facilitating the difficult (but seemingly inevitable) process of sedentarisation and tackling issues such as lack of education, malnutrition, alcoholism, domination by Bantus, promotion of Bakola culture and way of life, integration of women and children into economic and social networks and protecting their environment from logging companies. Jacques Ngoun, CODEBABIK's Secretary-General, attended the UN Working Group in Geneva in July 1997.

Workshops on Indigenous Peoples and Forests in Africa

The first of a series of three workshops on Indigenous Peoples and Forests in Africa was held in Accra, Ghana in October 1997. The workshop brought together community-based organisations, NGOs, government officials and forestry experts to discuss key issues affecting forest peoples in the West African region. The meeting highlighted the relationship between lack of democracy, social injustice and environmental degradation, and produced the Aburi Resolution. Two further workshops are planned for Central Africa and East Africa, with a continental conference scheduled later in the year.

KENYA

The national elections in December 1997 passed off with the expected associated violence. As was also expected, President Moi was re-elected and KANU formed another government. For indigenous peoples, very little, if anything, has changed. Despite the pledge made by President Moi for more sensitivity to the needs and aspirations of ordinary Kenyans, it is likely that the entrenched power of the political elite, continuing corruption, inefficiency of government institutions, and the use of violence as a means of suppression will continue operating against the interests of politically marginalised peoples.

Violence at the Coast

As a prelude to the election, violence erupted in Coastal province where perhaps as many as 1,000 people died. The bloodshed started in Likoni town where so called "up-country" people (*wabara*) were attacked by local gangs. The origin of the clashes is found in the dissatisfaction felt by coastal peoples (Digo, Giriama and Mijikenda) who have seen their traditional lands taken by outsiders for commercial development. However, the violence is also widely seen as politically motivated as the clashes were concentrated in those areas where opposition parties won key constituencies in the 1992 election. The government has been accused of inciting the violence so as to dislocate opposition voters and promoting *majimboism* (tribal based federalism) to create voter friendly enclaves.

Endorois Grievance Comes to Court

This case arose from the eviction in 1973 of more than 400 families of the *Endorois* people (sub-group of Tugen tribe and part of Kalenjin group) from Lake Bogoria Game Reserve and alienation of land within what was Mochongoi forest reserve - both regarded by the Endorois as their ancestral lands. At the time of eviction they were promised financial compensation or equivalent land elsewhere, and 25% of the total income generated by the Reserve. After petitioning the government in 1989, the Endorois were allowed limited resettlement in Mochongoi forest, but most of the good land was grabbed by others leaving them to occupy the remaining barren rocky terrain.

The loss of this land has adversely affected the whole Endorois community as their livestock have suffered because of the denial of access to their traditional pastures. Despite appeals to the President, who is also the local MP, and petitions to government for redress, only 30,000 Kenya Shillings (c. £30) compensation has been paid to them. This has prompted all 43,000 members of the Endorois community to bring a case against Baringo and Koibatek County Councils to the Nakuru High Court (No.214/1997) claiming true valuation and compensation for land they lost, and for back payment of 25% of the total income generated as gate fees of the Bogoria Game Reserve since

1973. It remains to be seen whether Moi will serve his constituents' interests and honour his public commitment to ordinary Kenyans by settling this case before it gets to court.

Iloodoariak Land Bill Founders

The *Maasai* residents of Iloodoariak are despairing that a legislative solution will be found to resolve the problem of fraudulent acquisition of their land by outsiders (see *The Indigenous World 1996-97*). Despite official assurances the proposed legislation (The Land Adjudication [Amendment] Bill) was not presented to parliament before the election and it is unknown whether the government will see fit to include it in the next programme of parliamentary business. The problem seems to be that those people with no interest to see the resolution of this problem, i.e. those connected to fraudulently acquired titles, also hold high office in government and are able to keep the bill out of the legislative programme. In these circumstances the Iloodoariak community is still actively campaigning to have the bill presented to parliament, and if all else fails they are considering bringing a case against the government to have the allocation of their land declared null and void and have it returned to them in trust so that the community itself may determine who occupies and uses it.

TANZANIA

In the last year there was little that was new or bad that affected indigenous peoples in Tanzania apart from the general effects of the worst drought in 40 years in some regions and the floods that followed.

The government's commitment to root out corruption was given impetus by a report of former Prime Minister and Attorney-General Warioba in which a former prime minister, a cabinet minister, six former cabinet ministers and other senior officials were named. This had an almost immediate positive effect when the Minister of Natural Resources and Tourism resigned after allegations were made public about his dealings with the Deputy Minister for Defence for the United Arab Emirates when issuing hunting licenses on Maasai lands in a scandal that has become known as 'Loliondogate'. In another revelation about

corruption in the courts it was admitted that "judgements were being written in the streets without even a hearing". This would give little comfort to those people who have brought claims for indigenous rights to the courts only to seem them founder.

Ngorongoro Residents' Rights at Risk

Conflict between mainly indigenous *Maasai* residents and the Authority entrusted with managing the Ngorongoro Conservation Area (NCA) continues over differing perspectives on the way the NCA is managed (see Charles Lane: Uncertain Future for Maasai of Ngorongoro. Indigenous Affairs 3/4-97). Residents still feel that their interests are treated as secondary to those of wildlife and tourism, and their rights to property - including the right to cultivate - are being infringed. Despite local protest, the General Management Plan has finally been approved and this has not improved relations. Of particular concern is the plan to re-impose the ban on cultivation that has resulted in food insecurity and under-nutrition, particularly amongst children.

Tensions were exacerbated recently by news that the Authority was planning to acquire title to the land of NCA that the Maasai fear could give the Authority a basis on which to force the Maasai out. It was also learned that it planned to move the administrative headquarters out of NCA to Karatu town that would distance administrators even further from residents. Government is also considering dividing Arusha region into two: assigning NCA to a new Rift Valley region that would be dominated by non-Maasai peoples that the Maasai fear could give rise to further displacement from their lands. In the face of these developments, Maasai residents are lobbying against changes in the legal status of their customary lands and plans to absorb Ngorongoro district into a new region. At the same time they are seeking legal advice about reform of the law under which NCA is administered with a view to ensuring that their rights are respected and they will have a greater role in its future management.

"Zoo in the Bush" at Mkomazi

Mkomazi Game Reserve is the focus of a struggle between government wildlife authorities supported by private conservation organisations, and the mainly Maasai and Ilparakuyu peoples who were evicted from the Reserve in 1988. The eviction of between 5,000-10,000 residents with 80,000 cattle was strongly enforced and no provision was made for their relocation. This caused severe disruption to the local economy as cattle died and many families were forced to leave the area. Those that remain have had to eke out a living from inadequate pastures in a narrow strip of land between the Reserve and nearby mountains. Some of the 60,000 people who live around the Reserve today feel they are entitled to access the land they regard as their own, even if that means having their livestock impounded and paying huge fines for 'trespassing' into the Reserve.

When appeals made to government failed a local community-based organisation, Ilaramatak Lorkonerei, took the matter to the courts (*Faru Kamunyu and 16 Others v. The Minister for Tourism, Natural Resources and Environment and 3 Others*, Civil Case No. 33 of 1994 and *Kopera Keuya Kamunyu and 44 Others v. The Minister for Tourism, Natural Resources and Environment and 3 Others*, Civil Case No. 33 of 1995 - now combined). In the case now being heard the Plaintiffs contend that the evictions failed to follow due process of law and are unconstitutional as they are in breach of customary rights to land. Despite international protest, attempts to bring a court injunction and the fact that legal rights to the Reserve are pending judgement in the courts, the George Adamson Wildlife Preservation Trust (UK) and the Tony Fitzjohn George Adamson African Wildlife Preservation Trust (USA) have continued supporting the construction of a $17.5km^2$ electric wire fenced rhinoceros sanctuary in the Reserve, referred to by one local Maasai leader as a "zoo in the bush", and imported into the Reserve five Black rhinoceros from South Africa. This constitutes a slap in the face to local people and works against a negotiated settlement of people's claim to the Reserve. It also lifts the stakes of the conflict and makes a judgement in favour of local people all the more difficult to implement.

BOTSWANA

The Central Kalahari Game Reserve (CKGR)

The movement of a large proportion of the inhabitants out of the Central Kalahari Game Reserve illustrate the uneasy relationship between the government of Botswana and its indigenous minority. The government claims that the 52,000 square kilometre Game Reserve (set up in 1961 as a reserve for people and wildlife) can not carry both an indigenous population and the wildlife, and moreover, that the state can not afford to provide basic services to a population living in such remote parts. The proposals for resettlement met with fierce protests form the people inside CKGR and also attracted international attention as the organisation First People of the Kalahari brought the matter to Geneva.

However, amidst solemn declarations that no one would have to move against their will, some 600 people from Xade, the largest settlement, were transported out in May 1997, and later people have moved out from some of the other smaller settlements (see *Indigenous Affairs* 3/4 1997).

In a literal sense, the removal has not been by force. Botswana takes pride in its reputation as a liberal democracy with a good record on human rights issues, and the government is adamant that all movements are voluntary. Reports show that no violence has been used to make people move. However, reports also confirm severe cases of coercion: people have been approached on an individual basis, they have been promised services and compensation in cash and kind if they would move, and at the same time they have been made to understand that there would be no security and no part in development for those who chose to remain. A desperately poor population has been given a choice between two equally unattractive alternatives, and has left their ancient land with great sorrow. Predictably, the individual compensation paid out in cash has disappeared quickly in consumer items and liquor, and the public amenities in the new place of settlement (New Xade) have been very slow in coming.

Makeshift huts in New Xade resettlement site, August 1997. (Photo: Christian Erni)

The Need for Dialogue

The Central Kalahari Game Reserve controversy proves the need for organisations that can adequately represent the interests and views of indigenous people, and the importance of governments to recognise such organisations. So far the government has done little to facilitate a dialogue.

In June 1997 the First People of the Kalahari (FPK) met with representatives from the communities inside the reserve, and a Negotiating Team was formed consisting of two representatives from each settlement, representatives of the three Bushmen organisations in Botswana, and some non-voting representatives of local supporting NGOs.

A letter was sent to the Minister of local Government, Land and Housing, respectfully asking for a meeting with the Ministry to discuss how a dialogue could be established on the question of land rights. Assuming that such a dialogue would take a long time, the ministry was requested in the meantime to agree on the following:

1. There shall be a moratorium on all removals form the CKGR until the land claim has been resolved;
2. Existing services to villages shall be maintained until a settlement is reached, or the matter is otherwise resolved;
3. Villagers resident in the CKGR shall have access to development opportunities complementary to the purposes for which the reserve was established but otherwise equivalent to those San communities living outside the reserve, pending a resolution of the land claim;
4. The Negotiating Team, and in particular the CKGR Committee shall be considered by the government to be the authentic representative of the San residents of CKGR;
5. The Government shall not communicate directly with individual residents of the CKGR, but shall channel all communication through FPK, and the advisors to the team;
6. The Government shall disclose all information (and supply copies of documentation where such exists) relevant to its policy of removals, and to those residents who have been removed since December 1996;
7. There shall be an agreed timetable by which the parties shall endeavour to resolve the land claim (Letter from the FPK and CKGR Committee July 8th, 1997).

These requests were the outcome of a proper process of debate and dialogue among the people concerned, and offer a reasonable basis for discussion, and subsequent negotiations with the government. Procedures along the lines indicated are by now familiar in most democratic countries in the dealing with indigenous minorities. Observers in Botswana have noted with great respect that the people concerned had been able to organise themselves in a Negotiating Team ready to talk with its government. All the more remarkable that the Ministry in ques-

tion simply ignored the letter, and continued its policy of coercion. Moreover, as noted by many observers, moving all local people out of the Game Reserve contradicts the government's tourism policy, which emphasises ecotourism and the involvement of the local population in wildlife management.

The situation for the people in Central Kalahari has brought a sense of urgency to the matters taken up by the First People of the Kalahari, and made it necessary to concentrate its modest staff and resources on the resettlement issue, at the expense of other objectives that the FPK was set up for. Inevitably, it has caused a delay in the mobilisation on the ground directed towards the establishment of a national representative council

In February 1998 a new workshop was held to bring together members of the Negotiating Team and FPK to reassess the situation for the CKGR land claim. The workshop discussed new strategies for reaching a dialogue with the Botswana government and considered possible legal actions and direct action. After having issued a press statement voicing their concerns, and through the mediation of Botswana Centre for Human Rights, a contact was established and the Negotiating Team headed by Mathambo Ngakayeaja and Roy Sesana met the outgoing President on March 24. The most tangible outcome was that the Ministry of Local Government apologised for having ignored previous communication, and a proper meeting with the Ministry was promised.

A Step Backwards

While the problems in CKGR were being debated, the newspapers reported that "The British promise to offer a solution to Basarwa's problem". The background was an offer from the British High Commissioner to call a conference on poverty, assuming this to be the biggest problem for the Basarwa. The proposal was seen by the San organisations as a step backwards compared to the Regional San Conference which was hosted by the government in Gaborone in 1993, and which brought promises for consultations with San representatives which are still waiting to be honoured. The British proposal sub-

scribes to the official Remote Area Development policy, which is to address people in the marginal areas only in their capacity of being poor and in need of welfare, disregarding the considerable cultural differences and entrenched social stratification between the San people and the Bantu-speaking majority groups. The First People of the Kalahari and the Kuru Development Trust both expressed considerable resentment about another top-down conference being planned without addressing the problems as the San people themselves perceive them, and at the moment it is not entirely clear whether the plan for a RAD workshop will go ahead.

WIMSA/Botswana and Kuru Development Trust

The Botswana branch of the Working Group for Indigenous Minorities in Southern Africa (WIMSA), a regional umbrella organisation with its head-office in Windhoek, is collaborating with Kuru Development Trust in the further development of a *Community-Owned Rural Development Support Programme*. The programme has included independent local community organisations throughout Ghanzi District, and is now being extended to the North-West part of Botswana, with a new contact point in Shakawe.

NAMIBIA

The Ju/'hoansi of Nyae Nyae (San, Bushmen, !Kung)

The Ju/'hoansi, about 3,000 residing in the Nyae Nyae area, are a population of Khoisan-speaking former hunter-gathers. They pursue a mixed economy, combining foraging and subsistence hunting with livestock production, small-scale dryland agriculture, craft manufacture, and a small amount of wage labor. People in the Nyae Nyae area still exploit a wide variety of resources, including over 120 species of edible plants and dozens of large and small mammal species. Hunting is done with traditional weapons (bows and poisoned arrows, spears, and clubs) and gathering of wild plants is done by hand or with the aid of a digging stick.

Traditionally, the Ju/'hoansi were organized as bands of individuals centered on and supported by the resources of a n!ore, the Ju/'hoansi

word meaning "the place to which you belong". Today, there are some 32 decentralized communities in Nyae Nyae, each with a water source, usually a bore hole with a windmill, kraals for protecting their limited number of cattle, and small agricultural fields and/or gardens. The communities range in size from about a dozen people to as many as 150.

The resources in a n!ore, including water, small game, and wild foods, are shared by an extended family group that is headed by a n!ore kxao, or "resource steward." The n!ore kxao is picked by the group members from amongst its elders and can be either a man or a woman. Some resources are viewed as 'common' and two or more n!oresi may have a stake in the same resources. In this case, decision-making is undertaken jointly by the concerned n!ore kxaosi. All game is considered to be common property, as are natural water points, and some wild foods, including mangetti nuts, marula nuts, and morama beans.

The Nyae Nyae Farmers' Co-operative (NNFC), the community based organisation representing the Ju/'hoansi of Nyae Nyae (former Eastern Bushmanland), overall goal is to secure land rights and to improve the quality of life for the Ju/'hoansi through various means including the sustainable management and utilisation of natural resources, increasing food production and income.

Over the past 12 years, in partnership with the Nyae Nyae Development Foundation of Namibia (NNDFN), an NGO which was set up to support, advise and facilitate training, the NNFC have implemented an integrated rural development programme (IRDP). The main aim of the IRDP is for Nyae Nyae to become economically independent from donor funding. This means that staff need training and skills development in the various aspects of their jobs to implement sustainable projects. Over the past year all the projects have been looking at being self sufficient which means changing from the idea of a donor funded project into a small viable business that can cover costs to run the projects and ensuring that people have the skills to run these businesses.

Currently, the NNFC are managing five main projects with all of them having a strong training component with the main aim focusing on self-reliance and sustainability, namely:

1. Income Generation – The overall aim is to generate income for and within the community of Nyae Nyae to increase self-reliance. The project is divided into 2 parts:

a. craft/shop activities: purchasing crafts in the villages which is run in conjunction with a mobile shop stocking basic foodstuffs;

b. tourism – the tourism project is investigating the tourism potential, viability and various options that the Ju/'hoansi communities could involve themselves in.

2. Village Schools Project – The overall objective is for the children of Nyae Nyae to have access to education for the first three years in their mother tongue (Ju/'hoansi). 5 Village Schools have been established in Nyae Nyae. The main focus has been on training Ju/'hoansi speaking student teachers, and developing curriculum material in Ju/'hoansi and English. The schools have been registered as one semi private school with the idea that the schools will fall under the auspices and responsibility of the Ministry of Basic Education and Culture in the near future.

3. Technical Workshop – The main aim of the workshop is to be able to maintain the existing technical systems in Nyae Nyae, and to become a viable business by offering technical services to other people and organisations. Training has included the following: basic vehicle maintenance and repairs, borehole maintenance including solar powered pumps, metal and wood fabrication, various aspects pertaining to running a small business.

4. Institutional Development – The main aim has been to strengthen the institutional capacity of the NNFC. The NNFC Management, Board of Management and staff have received training in skills to run an effective organisation including staff management, communication, and programme/business management.

5. Community Based Natural Resource Management – It monitors and manages the natural resources, subsistence level agriculture, and training of community rangers. The overall goal is to increase food production and income, which will result in an improved quality of life for the community through sustainable management and use of the natural resources.

Nyae Nyae is one of the remaining communal areas in Namibia with abundant wildlife and potential tourism sites. Historically, the communities living in the communal areas were not allowed to benefit from the wildlife, which destroyed some of their crops, and shared the meager resources with livestock. On 4 June 1996, the Namibian Parliament enacted a Conservancy Legislation Bill allowing for the formation of conservancies in communal areas. This will grant communities living in communal areas the right to utilise wildlife through the formation of the conservancies and wildlife councils which will facilitate the return of economic and societal benefits derived from the sustainable natural resource management to the community.

The community of Nyae Nyae decided and applied for one conservancy for the whole area, which was granted in February 1998. The Nyae Nyae conservancy was the first registered conservancy in Namibia.

Over 620 adults, with the potential of over 100 additional individuals, have been registered in the Nyae Nyae Conservancy. The area of the Nyae Nyae Conservancy is only 14 percent of what the Ju/'hoan ancestral territory had been pre-1950.

This loss of territory has had a serious impact on the ability of the Ju/'hoansi to subsist solely by hunting and gathering. The available area and resources can not sustainably support the current population. Furthermore, the integration of the Ju/'hoansi into the broader economy has created a need for cash. As a result, any plan to improve the well-being of the local people while using the resources sustainably is based on a diversified production system - one combining wildlife, tourism, livestock, crops, and income generation (i.e.: crafts production).

The Nyae Nyae Conservancy is over 9,000 km^2 in size and falls within the semi-arid ecological zone, receiving between 300-500 mm

of rainfall/year. Vegetation is highly variable throughout the Nyae Nyae Conservancy, reflecting the different soil patterns. It ranges from grasslands to shrub savannas to occasionally tree savannas. The Conservancy is characterized by a system of seasonal pans and depressions, especially in the south, that is unique in the Kalahari area. In years of good rainfall, the pans and the large areas of calcrete are inundated, attracting a large number of water and wading birds, including flamingos and pelicans, in the winter months. Endangered Wattled Cranes, snipe, the rare Slaty Egret and many migrants from Europe are also found when the pans are full.

The area is home to a number of animal species that are rare or endangered in Namibia or across the African continent. Elephant, wild dog, leopard, and roan are among the key species. There are also lion, cheetah, giraffe, blue wildebeest, red hartebeest, steenbok, gemsbok, kudu, and ostrich. There is a remnant herd of 30 buffalo which was cut off from its migration route to the Okavango Delta in neighboring Botswana when the border fence was erected. The game resources are depleted and unbalanced in quantity and species: while only small numbers of buffalo, giraffe, roan, and lion remain, the elephant, hyena and leopard populations are high.

The overall aims of the Nyae Nyae Conservancy are:

- to restore and sustainably manage and utilize the area's wildlife for the benefit of present and future generations and for maintaining Namibia's biodiversity; and
- to promote the economic and social well-being of the members of the conservancy by equitably distributing the benefits generated through consumptive and non-consumptive exploitation of the wildlife.

The NNFC will be facing a challenging task over the next few years with the management of the five projects and developing these into viable businesses (with the exception of the Education project) and in developing the Nyae Nyae Conservancy so that the Ju/'hoansi community benefits from all of these projects and initiatives to an extent whereby the NNFC will no longer rely on donor funds and will be a self-sufficient, self-reliant and an economically viable organisation.

The Himba People's Opposition to the Epupa Dam

The *Himba* people are continuing their struggle against a construction of a hydroelectric dam on the Cunene River. The Himba feel ignored by their governments and are becoming increasingly marginalised by current political developments. The construction of the planned hydroelectric dam would flood much of the land where the Himba people live, with fatal consequences for the Himba people's cultural, economic and social life.

The Himba number between 5000 and 7000 people and live on both sides of the Cunene River in northwestern Namibia and neighbouring Angola. They are a nomadic pastoral people who for centuries have adapted to the region's harsh conditions, the arid and mountainous landscape where rainfall is highly unpredictable. The ecological equilibrium is extremely delicate, and the ecosystem can not tolerate great pressure. The Himba people are economically independent, but their lifestyle requires to be able to move about large areas in order to find sufficient grazing land and water for the cattle. About 75% of Himba households engage in some agricultural activity during the course of the year to produce supplementary food, with the alluvial soils along the Cunene being prime garden spots. The Cunene, 1,050 km long, is the only river in the region which has water throughout the year.

The Himba have preserved their rich traditions and cultural heritage and are only marginally involved in the market economy. But the Himba people, similar to other peoples in the region, are politically marginalised. They have been excluded from the political process concerning regional development plans. The local population have no access to education, the majority therefore is illiterate, and only very few speak English, the national language.

Like many other indigenous peoples, they are at present affected by the nation state's development schemes. Namibia's demand for electricity is increasing both for household consumption and the mining industry. And Namibia wants in this respect to become independent from the former colonial power South-Africa. The idea to build a hydropower on the Cunene river has existed since Namibia got its

independence in 1990. Since 1995 a team of consultants has conducted a feasibility study on the possibility of constructing a dam at the Epupa waterfall. The study should analyse the technical, economic, ecological and social aspects of a construction of a hydroelectric dam and assess alternative sources of energy. It is being conducted by a consortium consisting of the Namibian government, Burmeister & Partners, Angola, Norconsult, Norway, and Swedpower, Sweden. The project has been financed by the Swedish International Development Authority (SIDA) and the Norwegian Agency for Development Co-operation (NORAD). Two alternatives are being investigated: the Baynes alternative, located four miles downriver from the Epupa waterfall and with a reservoir area of 50 sq km; and the alternative preferred by the government, with a 380 sq km reservoir area. It is estimated that both alternatives will produce 300 MW electricity, covering the present national consumption of 280 MW.

The feasibility study has however already been severely criticised. The criticism holds, among other things, that:

- the Namibian government has already decided to build a dam, and therefore the development aid money should have been used for something else than a feasibility study;
- the study has not seriously investigated sources of alternative energy;
- large-scale hydroelectric dams are not sustainable sources of energy;
- adequate studies have not been carried out on the Angolan side;
- there has not been adequate communication nor consultation between the government, consultants and the local people. They feel ignored by the government with respect to development programs in the region;
- by financing the feasibility study the controversial pre-feasibility study is legitimised;
- SIDA and NORAD legitimise construction of a dam by financing the feasibility study;
- it's questionable whether donor money should be used for a project which will marginalise already neglected people.

The Consequences for the Himba People

The Himba people do not have a unified position. There are some among them who consider the dam to be a positive development for the region. It is first and foremost the younger generation who points out the job opportunities, and merchants who anticipate increase in business. But the majority of Himba are opposed to construction of a dam. They feel that they have no need for electricity and prefer to continue with their traditional life. A dam will not only flood their fields which are of great importance during the dry season, but also important places of worship including ancestral burial grounds where they go to consult with ancestors. A dam has also other potentially negative consequences such as the presence of construction workers, roads, new settlements, and a commercialisation which today does not exist and is completely foreign to the region.

There is no indication on how exactly the Himba would be compensated should this occur and where alternative land would be found given the dire shortage of productive land in the region. But international experience has shown in other parts of the world where such projects have been implemented that the relocation of people has always led to their impoverishment. Forced relocation also does not take into account the enormous spiritual and emotional loss people suffer when being forced to leave their ancestral land.

Resistance

The feeling of powerlessness among those Himba people opposed to the dam reached its culmination when the vice-minister of energy and mines in Namibia, Jesaya Nyamin, made a public declaration in March of 1997 stating that it had already been decided to build a dam, and that the feasibility study will only serve to help decide which alternative to choose. And President Sam Nujoma indicated in August 1997 that Namibia will build the dam no matter what the study recommends, arguing that: "The Government will not be deterred by the misguided activities of those who want to impede economic development and upliftment of the standards of living of our people."

305

A future with the dam? Young Himba in Namibia (Photo: Mark Hakansson)

310

The opposition called for a meeting and formed a commission, the Epupa/Kaoko Committee (EKC). The EKC named a delegation which turned to Europe to seek support to stop the construction of the dam. Europe was chosen because the Namibian government stated that it was from there that financing for the construction of the dam would come.

The delegation was composed of Hikumene Kapika, chief of the Epupa region, Paulus Tjavara, chief of the Himba people in Namibia, and a woman translator. The Himba people feel that it is of great importance that the world become aware of their situation and the consequences of building a dam. During the three-week visit in Europe they went to Germany, Great Britain, Belgium, Norway and Sweden which was made possible thanks to co-operation between various international environmental and human rights organisations.

The objective of the visit was to give the Himba representatives the opportunity to speak for themselves and present their opinions; that they be able to influence the processes which are currently threatening them and their future; as well as to have the possibility to form an opinion at an early stage, before real decisions are made. At the same time the delegation gained a better understanding and knowledge about the new situation which they find themselves forced into. The visit to Sweden was reported on the radio, TV and in newspapers; the Namibian press wrote daily about the delegation's visit to Europe. The Himba were promised access to all information and that their position would be included in the final report. SIDA, the World Bank and the European Union have rejected financing construction of the dam.

In summer 1997 70 Himba representatives have met with their legal counsel, the Legal Assistance Center, to discuss the project, which prompted an assault by the police. The Namibian police forces and security police, armed with automatic weapons, stormed the private consultation. The police based their action on the AG 23 proclamation and prevented the Himba people from holding the meeting. Hikumene Kapika went to the Suprème Court in Namibia where his rights were recognised and indemnification for the police assault was awarded. SWAPO, the present government party in Namibia, has been seriously

criticised by all sides, and opposition parties have charged the government with antidemocratic treatment of the Himba people.

In contrast, the Himba in favour of the dam have not had any difficulties in being heard and making their views known in the corridors of power. It is regrettable that the authorities are acting in such a biased way, trying to exclude the great majority of the Himbas who are against the dam project. To ensure the rights and needs of all parties, an open dialogue in which all parties can participate to discuss the development of the region is necessary.

SOUTH AFRICA

In South Africa the Grigua National Forum has been established to promote the claims of the Grigua people to be recognised as an indigenous group and to give impetus to their claims to ancestral lands. Meanwhile the Department of Constitutional Affairs is planning a national workshop to establish a forum for all indigenous groups in South Africa. Such a forum would then assist in the development of a national policy regarding indigenous affairs.

In the meantime the *Khomani* people of Kagga-Kamma have been resettled on ancestral lands in the Northern Cape Province with the assistance of the Department of Land Affairs.

The fortunes of the *!Xu* and *Khwe* communities of Schmidtsdrift are mixed. Soon after they procured Platfontein, a farm near Kimberley, for resettlement, the Northern Cape Provincial Government placed a moratorium on the development of Platfontein. No reasons were given for this step. After lengthy and frustrating negotiations the moratorium was lifted and an agreement was entered into with the Provincial Government to develop the land. However, since the signing of the agreement no tangible progress has been made. The delay in the resettlement of the communities is very costly for the communities in terms of frustration and emotional stress as well as financially due to the escalation of development costs. Today, some eighteen months after the communities bought the land they are still at Schmidtsdrift, living in tents that are falling apart after eight years. In anticipation of the

permanent houses to be built on Platfontein, which are at best another 12 months away, the tents are not likely to be replaced.

The unhappy experience with the Provincial Government has an effect also on international sponsors, who are wary of becoming involved in funding projects. For this reason the cultural mediation project had to be interrupted, and is now pending international funding. This means that the much needed training to enable the communities to face the challenges of adapting to the new environment close to an urban area had to be discounted.

Fortunately some of the development projects on Platfontein are continuing, even though the continuance is coupled with difficulties due to the communities not being present to gain the feeling of being owners of the land. The cattle and game farming projects are progressing and maintain themselves financially. Royalties received in respect of mining activities on the farm ensure that the monthly running costs of social projects can be continued and that the administration costs of the Communal Property Association can be covered.

The communities are strengthening their links with the Working Group for Indigenous Minorities in Southern Africa (WIMSA) and are also participating actively in the establishment of a national forum for indigenous groups in South Africa.

PART II

INDIGENOUS WOMEN'S ISSUES

FIRST AFRICAN INDIGENOUS WOMEN'S CONFERENCE: SHARING KNOWLEDGE, EXPERIENCE AND STRENGTH

From April 20-24 1998 the First African Indigenous Women's Conference (FAIWC) was held in Agadir, Morocco. A meeting in which 36 of the invited 43 women of indigenous peoples from North, South, East, and West Africa were able to participate. It was the first time in history that African indigenous women got together to share their knowledge, experience and strength. Discussions and exchanges of experience and strategies acted as a basis for awakening to their own situation as an indigenous people. It provided them with the opportunity to explore similarities and differences together collectively with other indigenous women. Through this they were able to determine the connections on a larger scale between their position in their own community and within the dominant society. As a consequence, solutions for problems and strategies for the future were discussed, thus resulting in the strengthening of the position of both indigenous women and indigenous peoples.

Indigenous Women of Africa in World Perspective

The situation of indigenous women is at the cross-roads between two major issues: human rights and women's rights.

In both fields, important social movements are active in the struggle for real changes. International interest in these issues, and the success of the movements are demonstrated through the recently held world-wide conferences such as The World Conference on Human Rights, Vienna, 1993; the UN Economic & Social Summit, Copenhagen, 1995; and the Fourth World Conference on Women, Beijing, also held in 1995. During the last-mentioned conference, there was a special meeting of indigenous women. However, in the final list of signatories to 'The Declaration of Indigenous Women' presented during the conference, no African indigenous women were listed.

Even at meetings especially focused on indigenous peoples, such as the yearly UN Working Group on Indigenous Populations in Geneva, the female participation within the African delegations forms only a small minority (in 1995 the ratio of women to men was 3:30, in

1997 7:42). At two international indigenous women's conferences, held in 1988 in Adelaide, Australia and in 1990 in Karasjohka, Norway, respectively, not a single African representative was listed.
The invisibility of indigenous women in Africa at the aforementioned conferences point to the fact that these women do not have the possibility to formulate their interests and viewpoints at an international level.

In general, indigenous peoples all over the world find themselves in a marginal position within the countries they inhabit. In many ways they find themselves isolated. Although these obstacles are common to all indigenous organizations within Africa, additional blockades apply to women, caused by both their position within the indigenous community as well as the position of women in the dominant society in general.

The First African Indigenous Women's Conference, held in the fifth year of the 'International Decade of the World's Indigenous Peoples' (1994-2003), had the objective of breaking through the isolation of the indigenous women of Africa. The project was based on the assumption that the women in question, as well as their organizations, will be better able to collectively develop and formulate their interests and viewpoints. This position is supported by the fact that nearly all indigenous peoples' organizations have a history in collective action and strong interest in mutual contacts. This is especially true for women's organizations. The results at the international conferences in recent years were in fact made possible by these collective actions and international cooperations.

Conference Subjects

The consultations with African indigenous organizations, which formed the basis of the conference, brought forth two subjects determined thus to be the core issues. These two subjects formed the structure, within which the participants of the FAIWC shared their experiences and viewpoints with each other. The subjects are:

1. The role of the indigenous women as treasurers of the cultural and intellectual property of their people, and
2. Violence against indigenous women.

These are the subjects that practically all indigenous women have experience with and which play an important role in their lives.

Furthermore, some specific and practical *workshops* were organized on the following subjects:

a. The juridical situation of indigenous women in the countries they inhabit;
b. Traditional medicine;
c. Biodiversity;
d. Fund-raising;
e. Socio-drama.

1. Indigenous women and the cultural and intellectual property of their people

The culture of most indigenous peoples has a close connection to their natural environment. Indigenous peoples, because of their knowledge of their natural surroundings, could survive and use the environment in a sustainable manner. This knowledge was learned, established and developed over generations. In addition to the economic aspect, the environment has a big impact on other aspects of their culture including the spiritual and social structures of society. These include the knowledge regarding medicinal plants and other forms of healing; tool design; oral traditions including stories, poetry and songs; and other artistic forms of expression such as dance, dress and ornamentation.

Although the cultural and intellectual property of a people is developed by men and women alike, it is mostly the women who continue to propagate the culture of their people and pass it on to the next generations. One reason for this is that often the men have to move out of their environment, due to either economic pressure or because they enter into armed resistance against national authorities. This leaves the women to fully take over the education of the children, in spite of

the crumbling of the indigenous community and the threat of poverty and violence, both within their own region and/or in refugee camps.

Due to the fact that the women have saved and developed the culture of their peoples, i.e. the language, it is possible, in a subsequent phase, to fuel an emancipation movement and to provide it with the positive identity of indigenous cultures.

Draping a Berber scarf. Xguka Krisjan (Kuru Development Trust, Botswana), left, Silole Mpoke Gronlykke (Osiligi), right. (Photo Yvonne Peen)

2. Violence against indigenous women

Where peoples are suffering from marginalisation and violence coming from the government, most of its victims are women. In the case of armed resistance against the government authority, unarmed women, children and old men form an easy target for revenge. Violence against

indigenous women can be used as an effective tactic by the government to drive indigenous peoples from their territories.

Since women, as a result of their position within the community, guarantee the cohesion of the society, terrorist acts against them are carried out in the attempt to uproot the entire indigenous community. In addition, one may observe that in the eyes of the dominant society, women are often seen as the property of their men. In this case, the raping and mutilating of women is used as a means of revenge on the indigenous men.

It is not only from the dominant society that women are threatened in their existence and integrity, but also from within the indigenous community itself. Here violence against women is also increasing. This violence is initiated by those men who, due to the influence of the dominant society, have either lost their sources of income, thus suffering a loss of self- esteem, or by men who, as a result of an unexpected offer of wage labour, enforce their position of power at the expense of the women.

The influence of the dominant culture strengthens the patriarchal tendencies in the indigenous communities and undermines and/or erases the traditional, often matrifocal, structures and cultural elements.

A third form of violence against women is part of some of the indigenous cultures. These traditions are often meant to control the sexual and economic activities of the women. These lead to the restriction of freedom by means of threatening with violence and/or by employing it as a means of control, i.e. circumcision (genital mutilation). A less visible form of violence against women is to marry them (very early), thus making them the property of their husbands. Another is to morally silence the women, thus obstructing their ability to express their opinions and advocate their rights.

In spite of the crucial role women play in their society as educators of the new generation, a task often accomplished under extremely harsh circumstances, women frequently hardly have any real decision-making power, even over their own lives and bodies.

Outcomes of the Conference

The five days of the FAIWC were largely filled with plenary meetings, workshops, excursions and last but not least, informal sharings of the participants during the time between and after the scheduled meetings. The open and warm atmosphere among the women coming from all over Africa was one of the shared experiences of all women present, participants as well as organizers. The exhibition set up the day before the start of the conference helped to explain the background and culture to the African indigenous women from other regions.

The two main subjects were treated in plenary meetings. The outcome of the 'Indigenous Woman as Treasurer of the Cultural and Intellectual Property of her People' was in short that the traditional culture in the form of language and knowledge of the environment should be saved and transmitted to future generations. And it was especially women who were most able and already very active in doing so. On the other hand, degrading practices and traditions against women should be abolished. Such as female genital mutilation (FGM) and the fact that in several indigenous societies women were not allowed to posses or gain property, being herself the property of her husband. One participant remarked that it should be the women who could and should change this negative side of the culture. Several participants stated that through external influences such as colonisation and globalisation the situation worsened.

This was made clear when the women shared their experiences on the second main subject, 'Violence against Indigenous Women'. All present were very much moved by the description of the terrible sufferings the Nuba had to endure due to the simple fact of them being Nuba. These experiences with state violence were to a large extent shared by the women from the Oromo from Ethiopia and the Kel Tamachek from Mali and Niger. Other forms of violence from outside the indigenous community were shared by the San women from Namibia and Botswana, who also underlined the fact that in earlier times their society had been egalitarian, but that nowadays things had changed under the influence of the dominant culture. FGM and the consequences

for the women (premature and forced marriages, no formal education, economical dependence, lack of knowledge of rights) were given as examples of violence inflicted on women from within the indigenous society. For most of the women coming from other regions it was the first occasion to learn about this tradition, which for many of them was quite a shock. On the fourth day when the results of the plenary meetings on the two main issues and the workshops on the 'Juridical Situation of Indigenous Women' and on Biodiversity were presented, many participants commented that they would like to continue the sharing of experiences with other indigenous women of Africa which they had started during the FAIWC. They discussed the fact that it was important to establish regional and local groups which could not be effective without an overall African indigenous women's organisation which they decided to establish. This organisation should keep all participants informed and should coordinate actions to support, both the struggle for rights of one of the member organisations as well as their common goals as indigenous women of Africa.

The office of the African Indigenous Women's Organisation, founded April 24, 1998, in Agadir is temporarily located in Amsterdam, at the NCIV office, P.O. Box 94098, 1090 GB, Amsterdam, The Netherlands, FAX 00-31-20-665 2818. The office will facilitate the release of a newsletter in English and French, the 'Voice of the African Indigenous Woman/La voix de la Femme Autochtone Africaine'. At the end of this year we hope to release an elaborate report on the First African Indigenous Women's Conference, in French and English.

SECOND ASIAN INDIGENOUS WOMEN'S CONFERENCE

From March 25-29 this year, 30 Asian indigenous women assembled in Kanchanaburi, Thailand for the Second Asian Indigenous Women's Conference. The event was organised by the Asia Indigenous Peoples' Pact (AIPP), the Asian Indigenous Women's Network (AIWN) and IWGIA. The Conference which has received financial support from the Royal Norwegian Foreign Ministry (NORAD) and the Danish Foreign Ministry (DANIDA) was hosted by AIPP. The purpose of the Conference was - besides sharing experiences - to identify the main issues confronting indigenous women and their community and develop these issues into programmes for future actions.

The participants came from Thailand, India, Nepal, Cambodia, Indonesia, Malaysia, Philippines, and Taiwan, and for many of them it was the first time they attended an international conference. A small groups of Karen and Karenni women originating from Myanmar and today living in refugee camps in Thailand were also able to join. Two Maasai women from Kenya, Africa also participated in order to contribute with their experiences and establish links with their Asian sisters.

Main Issues and Recommendations

The first day and a half was used to present the various country reports and to identify the issues to be discussed in workshops and plenaries during the two following days. Four workshops were organised on the following themes: Land and Economical Issues; Culture, Belief and Spirituality; Knowledge and Education; and Politics.

Land and Economical Issues

Among the many issues raised by the country reports, a recurrent one was the usurpation of indigenous ancestral lands and the natural resources hereon. From Jharkhand (India), Jyotsana Tirkey reported that "a silent alienation of tribal land is going on", and that as a result of mining, dam constructions, industries and wildlife projects "85 lakhs tribals have been displaced during the past four decades" and 22.5 lakhs acres of land have been taken from (them)". Anna Lidan from

Sarawak related that about 300,000 hectares of Sarawak's primary forest are logged every year. A similar picture was drawn by Rahima Datumanong from Mindanao (Philippines), where more than 226 development generating projects ranging from pasture leases and logging to mining, plantations and government reservations have plundered the island's natural resources. From Cambodia, Chak Meul spoke about the plans for large-scale resource extraction projects in the province of Ratanakiri, and how they will threaten the indigenous population, who hitherto had lived relatively isolated in this remote region: "Conflicts are growing as the ancestral lands are encroached on by plantation developers, timber companies, property speculators and anarchic forces...The majority of these concessions have been granted without consultation with the local people", she said.

All this deeply affects the livelihood of indigenous women who experience increasing difficulties in fulfilling their role as providers, gatherers of firewood and non-forest products and land tillers. The workshop also identified a number of other problems resulting from the commercial exploitation of ancestral lands, such as health problems, early child labour, sexual abuses and prostitution. A distressing example was that of Kalimantan (Indonesia) where in order to survive many Dayak women get 'temporarily married' to company workers, but are abandoned as soon as the latter's work contract is finished. The numerous children from these marriages are called 'Anak ASEAN' (ASEAN kids).

As their subsistence basis disappears, many women have no other alternative than to migrate, and thousands of indigenous women all over Asia each year leave their communities in search of paid jobs in the big cities or, as in the case of the Cordillera women of the Philippines, even abroad. What they find, however, are often far worse conditions than those they left behind, and each year numerous cases of inhuman work conditions, sexual abuse and violent deaths are reported.

The introduction of the market economy is also affecting indigenous women. As Mor Tummarchartudom, a Hmong from Thailand, explained, the promotion of monocultures means more work throughout the whole year and hence less time for learning and keeping the traditions alive. She also stressed that the promotion of cash crops not

only erodes the traditional position of women but makes the households totally vulnerable to external market forces and the price of pesticides and fertilizers. Irene Katete from Kenya, who works as a social worker, described how the introduction of cash has destroyed the barter system that previously allowed Maasai women to have control and access to resources. This change in their economy has resulted in the control of resources and cash being allotted to the men. Another example was from Ratanakiri where some of the highlander women experience problems with the market economy because of their "inability to count money or read scales". This recurrent problem has given rise everywhere to middle-men, often corrupt non-indigenous persons that take advantage of the women's lack of knowledge.

As concluded by the workshop, the "new market economy offers limited job opportunities for indigenous peoples. The work is not sustainable and when resources have been depleted for the benefit of multinationals, the indigenous people are left unemployed and with their traditional source of subsistence destroyed. The traditions and culture of the indigenous communities are changing as a result. But indigenous women need more and better information on common issues and the effects and repercussions on their life, and steps to raise forums for common concerns should be taken."

Education and Knowledge

The country reports showed that the lack of education is a general problem for indigenous women. There are many reasons for this, as for example time constraints, workload, lack of mobility or access to the education system and the perceived lack of need. In the case of Maasai girls, Priscilla Nangurai's experience as the headmistress of a girls' boarding school, was that many school drop outs were due to early marriage, teenage pregnancies, and circumcision.

In the case of the Hill Tribe women in Northern Thailand, the lack of education has wide ranging implications since it entails that they cannot apply for a Thai citizenship and obtain an identification card (ID card) as "applicants must know or speak mainstream Thai language and adopt a Thai name before they are considered eligible". Without an ID card, on the other hand, their movements are severely restricted,

they cannot legally go to work outside their communities, they cannot purchase land and they are ineligible for any government supplied services such as health, education, etc.

While there was a general agreement on the importance for women to get an education, the participants also criticised the different mainstream education systems for introducing an alien culture that not only endangers the indigenous peoples vernaculars and their traditional way of life, but also their moral values. This was especially emphasised by Stella Tamang speaking about the situation in Nepal where the indigenous youths come out of the Hindu mainstream education system "having lost everything from their own culture without having gained access to the dominant society".

Many therefore emphasised the need for defining and preparing a curriculum that integrates elements from both mainstream and indigenous education systems and secures the teaching of indigenous languages.

The workshop also discussed how indigenous knowledge could be protected from appropriation by international companies. Various examples of piracy from Nepal, Burma and Taiwan were given, and one of the recommendations was to explore how indigenous knowledge could be effectively protected.

Culture, Belief and Spirituality

The importance of culture and traditional values was invoked by most speakers in the presentation of their country report. In general indigenous women play an important role in their communities in promoting belief and spirituality and they are also usually recognised as having specialised knowledge and skills in traditional health care.

However, the situation described in the report from Sarawak remains valid for most of the indigenous societies represented in the Conference: "The Dayak women remain one of the most marginalised, discriminated and oppressed sections of society. The community socio-political institutions and processes are men dominated. The community's leadership is also male dominated. The women's role in the society has been continuously neglected or overlooked due to societal attitudes concerning women. There exist stereotypes of women as being

weak, indecisive, emotional, dependent and less productive than men. These stereotypes undermine women's development and achievements." In her report Jyotsana Tirkey noted that Jharkhand women feel that "customary laws now practised need to be somewhat and to some extent changed. Some casteist unwanted attitudes and practices are also coming into Adivasi society". Similar concerns were reported by Pratima, who as a Jaunsari lives in a society that practises both polygamy and polyandry. She referred to one of the recommendations from the 'Conference of Indian Tribal/Indigenous Women' held in Dehra Dun, India in early March, which states that: "...while codification of customary laws and practices is generally a good step it is fraught with grave danger for women. There are various tribal practices which adversely affect women, like polygamy, exclusion of women from property rights, etc. Codifying these negative aspects would permanently harm the tribal women".

In the workshop the women discussed some of the institutions and practices they consider to be especially oppressive to women, such as early marriage, dowry and bride price, inheritance practices and property rights. Drug addiction and alcoholism were an issue that also was discussed as it affects many indigenous peoples. It is often seen as stemming from the situation of cultural, economic and political repression they are submitted to, and leads not only to domestic violence but also dependency and disempowerment.

There was a general consensus on the need to change many attitudes and not see tradition and culture as static and unchanging, but on the contrary encourage the re-examination and reinterpretation of certain practices which are used to discriminate against women.

Politics

Almost all the country reports underlined the limited participation of women in local political structures and village decision-making processes. Traditional village councils and other representative bodies are almost always male dominated, and in the few cases where women do participate the authority lies with the elders who are men.

Yet, this marginalisation has not prevented indigenous women from taking an active part in the struggle to protect their communities from

so-called development activities that is land alienation, forced displacement, etc., a role which is not too often heard about but which was underscored by several speakers. In Jharkhand, for example, women have been at the forefront of the 27 year long struggle against the building of a dam over the Koelkaro river, and they were part and parcel of a movement to prevent the setting up of the Netrahat Field Firing Range. In both cases the government had to give in and stall its projects. Some of the speakers could even refer to their own experience, as for instance C.K. Janu from Kerala in South India who has spent large periods of her life in jail, and Mama Yosepha, one of the leaders of the Amungme clans of West Papua (Irian Jaya), who told about how she forced an eye-to-eye meeting on the powerful president of Freeport McMoran, the gold mining giant based in the USA which has confiscated the land of the Amungme and the Komoro tribe. In the opinion of C.K.Janu "in the course of agitations, it is usually the women who stay on to fight. Men are easily lured away with a cigarette or a *beedi* (Indian cigarette) or other temptations".

In almost all the armed resistance movements indigenous women have taken active part, and examples were given from Myanmar, the North Eastern states of India, and the Philippines. And they are often those who suffer most seeing their families killed, their homes destroyed, and themselves tortured, imprisoned, and raped. The women's experience was that rape was being widely used as a weapon to emasculate the indigenous nations. Many women end up in refugee camps, but even there, as testified by the Karen and Karenni women living in the refugee camps along the Thai-Burmese border, people live in fear as there have been several attacks by the Burmese SPDC troops resulting in the death of many refugees. The Thai army is also known to harass the refugees.

In the view of the indigenous women's deep involvement in their peoples' struggle for self-determination and human rights, the workshop's main recommendation was to demand that "(this) role be recognised and that we may fully participate in the decision making proc-

esses, whether in our own society or in indigenous peoples' interaction with the dominant society".

Outcome and Follow-Up

In its closing session, the Conference discussed how, in the words of Stella Tamang, "to go from dreams, hopes and ideas to actions". As a first step a resolution was passed to set up a committee. This committee will be a 'loose' body set up under AIPP, and for the moment its responsibility will be to follow-up on the results of the four workshops and finalise a workplan, to network and to prepare for the next regional meeting.

But a prerequisite for the committee's work will be the strengthening of indigenous women's movements and organisations, a task that must be taken up by the participants in their respective communities. Only through organising will indigenous women be empowered and gain more influence. Several examples were put forward at the Conference. One was that of the Cordillera women who were able to put alcoholism on their communities' agenda; another that of the women in the Karenni refugee camps who have been able to organise and initiate welfare programmes. From Nagaland, Shimreichon Luithui gave the example of the women's organisations who, thanks to their organised struggle against state violence, have played an important role in conflict resolution and are now taking part in the dialogue with the government of India.

Much remains to be done, however. Speaking about Jharkhand, Jyotsana Tirkey noted that: "Indigenous women's organisations are very few. And they want more support from national and international women's fora. The future of the indigenous women's movement faces many invisible and visible barriers and challenges". Other speakers presented similar views. But there were also given encouraging examples of new initiatives, for example from India where Shimreichon Luithui told about a newly formed Women's Task Force established within the All India Indigenous/Adivasi Coordinating Forum with the specific purpose of strengthening the indigenous women's movement.

CONFERENCE OF INDIAN TRIBAL/INDIGENOUS WOMEN AT DEHRA DUN

Various surveys and studies have shown that Indian tribal women, like their sisters abroad, are victims of a threefold oppression - as women, as tribals and as poor. Although tribal people in India and their organisations have increasingly gained recognition and in some cases even political influence, tribal women have remained almost invisible and little or no attention has been paid to issues concerning them directly.

Rural Litigation and Entitlement Kendra (RLEK) has been working with the indigenous communities of the Van Gujjars and the Jaunsaris in the Garhwal region of Western Uttar Pradesh for the past few years. In the process of its attempts to empower the women of these communities it has seen that the problems of these tribal women are also shared by their tribal sisters in the rest of the country. RLEK therefore felt that these should be seen in a wider and more national context in order to recognise the general awareness of the situation of tribal women in India, their human rights and their crucial role for the survival of the tribal peoples.

With this in view RLEK organised a Conference of Indian Tribal/Indigenous Women from 15 to 17 March, 1998, at Dehra Dun in Uttar Pradesh, India. It has received financial support from the Danish Foreign Ministry (DANIDA). The conference gave the opportunity to the participating tribal women representatives to share their problems, concerns and aspirations with their sisters. The conference prepared the ground for furthering the possibility of their being able to raise their voice at regional and international fora.

Seventy three tribal women representatives (with their interpreters/translators) from across the country participated in the conference. The tribes represented in the conference were: Kinnora, Bhil, Kundh, Santhal, Karbi, Uraon, Thakur, Mizo, Kom, Varali, Kokani, Khasi, Naga, Tharu, Bodo Kochary, Garo, Dungri Grasia, Chero, Jaunsari, Van Gujjar, Tripuri, Reang, Konda Reddy, Konda Dora, Konda Kamari, Ho, and Kondh.

Inaugural Function

The Conference of Indian Tribal/Indigenous Women was inaugurated on the 15th of March, 1998, at 11:30 a.m., by Justice Mrs. Shobha Dixit of the Lucknow Bench, Allahabad High Court. In her inaugural address Mrs. Justice Shobha Dixit encouraged the women to join hands with their men folk in creating an equitable society. She said that to a large extent women themselves were responsible for the discrimination against the girl child as they succumbed to social pressures. In a panel discussion by the tribal women representatives of the North East it emerged that where they shared a commonalty with their tribal sisters in other parts of the country their situation also had its uniqueness. In an atmosphere rife with aggressiveness and violence they had to play the role of peace makers and peace keepers, she said.

Two hundred and fifty local tribal/indigenous women attended the inaugural ceremony. Their representatives remained to participate in the conference.

Six more speakers addressed the participants at the inaugural ceremony:

Ms. Vijay Lakshmi (mamber of the District Panchayat, Kinnore, Himachal Pradesh) lauded the opportunity that the reservation for women in the *panchayat raj* system had given to the women of India and emphasised that it was very necessary for women to be given a good education. She also described the effects of lack of medical and health services in remote areas upon the women and children.

Ms. Leela Kayastha (Nepal, National Depressed Welfare Social Organisation) highlighted the growing incidence of trafficking in women and girl children from Nepal to India.

Ms. Phulkeria Minj (Bihar) described the plight of tribal women in big cities like Delhi.

Ms. Ratna Devi (Kshetra Panchayat Member, Kalsi, Jaunsar) pointed out how her tribe's customary laws denied any right to property to the women, making them totally dependent upon their men.

Ms. Imami Murmu (Dumka, Bihar) highlighted the migration of tribal labour from Bihar to other states because of lack of any opportunity for them in Bihar. The women are sufferering most as they have to create a domestic environment in totally unknown lands. Those

women who are left behind in Bihar had to take up all the responsibilities and are subjected to a great deal of exploitation, both financial and physical

Ms. Badki Bai Damor (Chairperson, Adibasi Mahila Jagriti Sansthan, Udaipur) talked about the lack of education opportunities for her tribe, specially women, and, consequently, a great incidence of unemployment among them.

Plenary Session on the Process before and after the Beijing Conference

The four main speakers had all attended the Beijing Conference and explained to the participants what it meant for tribal women. They spoke about how several workshops and seminars were held at regional and village level all over India to take women's voices to Beijing. The women communicated through songs, drawings, actions, theatre etc. A cultural delegation from the grassroots level participated in the cultural fora in Beijing. The significant thing that emerged from these meetings was that the life of indigenous women was in danger. They had never been involved in the decision making process. Yet they have traditional systems, like the health system, which they have kept alive for so many centuries. All these experiences were shared in the Beijing process. An alliance of marginalised and *dalit* women was also made at the national level which was a very important alliance for indigenous women.

At Beijing a special conference was called for the women of the North Eastern states of India because it was recognised that not only were they facing problems as tribal women but they had also to face the problems arising out of the armed conflict taking place there between the people and the state as well as people and people.

The Beijing Declaration was also briefly explained to the participants.

381

Farewell hug in Dehra Dun (Photo: Christian Erni)

Other Plenary Sessions

Six papers were read and presentations made in the plenary sessions. They dealt with the following issues: Role of indigenous women in development of society; Working Conditions of Tribal Women in Metropolitan Cities; Tripura at a Glance and Status of Tribal Women in Tripura; Socio-cultural life of the Bodos; Forest Dwellers & Non Timber Forest Produce (film); Nomadic Pashmina Herders of Changthang, Ladakh (slides & commentary)

Special Plenary on North East India

The tribal women of the North East share a commonalty with other tribes but are also living in a unique situation because of the insurgency in the area. A special plenary session was devoted to the problems of the North East.

Besides describing the characteristic features of the tribes they belonged to the group pointed out how they were playing the role of peacemakers between their own men and the state agencies as well as between the men of their different tribes. The greatest sufferers from militancy in the area were the women and the children.

Working Groups

The participants were distributed cards in which they were requested to note down the problems they felt most effected their situation as tribal/indigenous women. On the basis of these the participants were divided into three groups to discuss three broad categories, socio-cultural, socio-economic and socio-political.

After the working groups had discussed and analysed the issues that effect them one, two or three of them were required to present their findings and suggestions in the plenary session that would follow. To facilitate the groups each one of them was provided with a moderator and a rapporteur.

Group I - Socio-economic Issues. Focus was on: Problems of landlessness; Unemployment; Impact of multi-nationals; Poverty; Alcoholism amongst men.

Groups II A and II B - Socio-political Issues. Focus was on: Land ownership rights of women; Resettlement/eviction from forests; Basic facilities like health, education, sanitation, water, roads etc.; Traditional rights and entitlements; Corruption amongst the bureaucracy etc.; Women in governance; Fear psychosis amongst tribal women/ police atrocities; Government policy regarding multinationals.

Group III - Socio-cultural Issues. Focus was on: Education - the need for including traditional knowledge and language; Incidence of alcoholism; Male chauvinism and male oppression; Discrimination between men and women - specially the girl child; The burden of household work; Early marriage; Modernisation; Lack of understanding of tribal issues.

Recommendations of the Conference of Indian Indigenous/ Tribal Women held from 15-17 March, 1998, at Dehra Dun, Uttar Pradesh, India

The suggestions made in the presentation of each group were then incorporated as the Recommendations of the Conference. These were

I. a) Transfer of lands in tribal womens' names should be facilitated to prevent easy alienation of land from tribal households to either non-tribal individuals or companies/corporations.

b) Many social injustices will be alleviated if joint ownership of land and property of husband and wife is the new pattern of land ownership.

c) Marketisation of economy is adversely affecting the food security of the tribal families and the position of women in tribal households.

Market forces are creating a shift in agricultural pattern from staple food crop production to commercial food crop production.

In a food based agricultural system women have decision making power both in regard to the subspecies of food crop to be grown and the use of such produce for family consumption and market. With cash

crops the households become totally vulnerable to external market forces over which the households have no control and in such a market driven economy men necessarily have to take on a more dominant role.

The national economic policy of liberalization and globalization and the dominant development framework or paradigm are harmful to the country and to tribal people and these policies need to be changed.

2. The entire tribal society has been traditionally dependent on nature i.e. forests, natural water and other natural resources including non-timber forest produce. There had always been a symbiotic relationship between communities and their environment. Tribal people generally do not harm nature because that would deprive them of their life and living. However, compulsions like indefinite tenure or natural disasters compel them at times to overexploit their natural resources. It is necessary, therefore, that environment education is extended to tribal groups.

The present trends towards sustainable environment management and preservation of biodiversity unfortunately deny this historical and symbiotic relationship. This adversely affects their occupation, livelihood and lives.

On the other hand commercialization through large scale logging and creation of monoculture forests are definitely harming biodiversity and ecological balance.

3. The remoteness and insularity of tribal groups creates a feeling of isolation and insecurity. NGOs should try to include in their agenda of activities exchange programs between different tribes from different regions so that each group knows the commonalty of their problems which would help solidarity and help collective, collaborative organization.

4. Whereas codification of customary laws and practices is generally a good step for the tribes it is fraught with grave danger for women. There are various tribal practices which adversely affect women, like polygamy, exclusion of women from property rights (excluding three matrilineal societies i.e. Khasi, Garo and Jayantia), non-participation

of women in collective decision making etc. Codifying these negative aspects would permanently harm the tribal women. There is, therefore, a need to re-examine the whole matter to advance the interest of women in tribal society.

5. a) Formation of strong tribal women's organisations at the local, regional, state and national levels are imperative in order to deal with social, political, economic and development related problems that tribal women face.

b) A network of tribal women's organizations should be developed to help each other out in difficult situations and to focus attention at the state, regional and national levels to ensure appropriate remedial actions and to perform an advocacy role.

c) This network will also act as a pressure group to project tribal problems through the media and the legislature. They can also take up issues of violation of human rights and other infractions of law and the constitution in the state High Courts, state Human Rights Commission, National Human Rights Commission and the Supreme Court.

6. There is deep concern about the spread of alcoholism which is disrupting tribal families and economies and causing violence against women. Alcoholism, which is often promoted for commercial considerations by the corporate sector, must be stopped.

Apart from brewing their traditional alcoholic beverages in the family there should be total prohibition of entry of commercially manufactured alcohol in tribal areas.

7. Education is essential for the empowerment of women and the curricula should include the tribal cultural ethos and ancient wisdom particularly relating to health care and economic pursuits.

In fact there should be serious research of such ancient tribal knowledge to enrich modern science and establish a link between the past and the present. In addition there is a need for the inclusion of a tribal women's history in the main body of the country's history.

8. Though tribal women have a high status in their own society they are totally excluded in all matters relating to the governance of the

tribal society. In most tribes women are not allowed participation in tribal councils or any system of tribal justice.

Reservation of women as provided for in the 73rd and 74th Constitution Amendments is an issue on which there was a broad measure of consensus though there were differences of opinion in the extension of panchayat system to 6th Scheduled Excluded territories and the excluded states of Mizoram and Meghalaya.

An attempt should be made to have the best elements of Panchayat Raj embodied in the 6th Schedule areas so that women may exercise governance in these territories like their sisters elsewhere in India.

9. India is signatory to a number of international conventions that are specifically related to the indigenous and tribal people of the world, and to the indigenous and tribal women in particular. They pertain to respecting the rights and entitlements of these people and recommend that in any state decision that may have a direct or oblique impact upon the tribal people they must always be consulted and their decisions incorporated.

However, a number of these conventions are not even ratified by the government and even where they have been ratified they are not implemented. Tribal groups in India must collectively put pressure on government to ratify and implement these conventions.

10. The situation of migrant tribal women labour has to be seen as a serious problem that not only undermines the self respect and dignity of these tribal women but also puts them in situations where they are oppressed and exploited. Organisations of such tribal women must be built up and strengthened to ensure that occupations provide them the appropriate salaries and wages commensurate with their work. Also, that they are given the due respect that any person working for a living must get.

The Interstate Migrant Labour Act partially responds to this problem. Recourse may be taken by this Act, especially in the case of migrant tribal women labour.

11. To provide employment and earning options to tribal women the state governments will have to be persuaded to provide requisite vocational training to develop alternate skills.

12. Any major development activity, especially relating to mining, industries related to mineral resources, major dams etc. result in large scale displacement of certain populations, particularly of tribals. No sound policy is followed for proper rehabilitation of persons so displaced, both from their livelihood and lifestyle. While selecting the sites due care and caution should be taken to avoid large scale displacement. Some displacement is unavoidable. Proper measures should be taken to rehabilitate such families/communities in an ambience which is familiar to them to provide them with appropriate skills to make them employable in modern industry.

PACIFIC FAMILIES' NETWORK

Pacific Women's Network was founded in 1995 as a women's forum, located in Hawai'i. It provided Pacific women opportunities to meet and discuss with other women of colour common concerns in the Pacific region (nuclear racism, high rates of incarceration, drug abuse, domestic violence, sexism and sexual harassment on the job and/or in school). The organization's birth was timely, coinciding with a women's gathering - the 7th International Cross-Cultural Black Women's Institute - in Hawai'i. Pacific Women's Network became the host for this event, linking up Hawai'i and American women of colour with Pacific women students attending University of Hawai'i on O'ahu, and visiting women from Fiji, Western Samoa, Palau, Amerika Samoa, Solomon Islands, Australia and Aotearoa.

In April, 1998, the Pacific Women's Network changed its name to Pacific Families' Network, in keeping with an expanded mission and philosophy: serving Pacific women and children, especially incarcerated women transitioning out of prison and their families, through 'empowerment options' - providing broad support for women (and their mates) who choose to work in the social justice field after they leave

prison. PFN is currently instituting an internship program for transitioning inmates now in residential programs to encourage them to choose from a number of options, such as higher education, training in video production, environmental restoration, social activism through legislative lobbying, mediation training and/or peer counselling in any social justice field. Internships will consist of 'career shadowing', as well as a modest stipend, to expose inmates to new ideas and to train them to train others.

PFN's focus on prisons arises out of concern for the numbers of Pacific people being incarcerated in US prisons and in Pacific states. Studies show that in Hawai'i, for example, Hawaiian inmates comprise 73% of the prison population, while Hawaiians, as a group, make up only 20% of the total population. Overrepresentation of Hawaiians in Hawai'i prisons mirrors the percentages of Native Americans and Blacks in American prisons, and likely holds true for Pacific peoples in other areas in the Pacific.

While PFN has tried to meet the needs, primarily, of Hawai'i families, it is hoped that before the end of 1999 PFN will have linked up with family networking organizations in other areas of the Pacific.

For more information on our program, contact Lynette Cruz (Outreach Coordinator) at (808) 738-0084 - phone, or (808) 738-1094 - fax, or e-mail <lcruz@hawaii.edu>.

PART III

INDIGENOUS RIGHTS

UN DECLARATION ENTERS A THIRD YEAR AT THE UN COMMISSION ON HUMAN RIGHTS

By Andrew Gray and Jens Dahl

Between October 27th and November 7th 1997, the third session of the Open Ended Working Group of the UN Commission on Human Rights (CHR) discussed the draft Declaration on the Rights of Indigenous Peoples. The draft Declaration is a document which, after a process of nearly ten years of consultation with indigenous peoples, was approved by the expert UN Human Rights Sub-Commission on the Prevention of Discrimination and the Protection of Minorities in August 1994. The draft was then sent on to the CHR to be discussed by governments in the Open-Ended Working Group (OEWG). The first two sessions of the OEWG have been described in detail in IWGIA's Indigenous World 1995-96 and 1996-97.

Formally the Open-Ended Working Group operates according to the rules of the Commission on Human Rights. This consists of 53 government representatives who have the full participatory rights of attendance, speaking and decision-making. Non-member governments can attend as well as NGOs with consultative status with the Economic and Social Council (ECOSOC) of the UN. NGOs have the right to attend CHR meetings and speak once on each item of the agenda.

When the Open-ended Working Group was established in 1995, the UN decided to allow indigenous participation and a complicated procedure was established for accreditation of indigenous organisations. This involves writing to the coordinator of the 'Indigenous Decade', Mr. Ibrahim Fall, at the Human Rights Centre in Geneva who consults with the governments concerned. With their approval the application is passed to the NGO Committee in New York where each proposal is discussed and most are accepted. Over one hundred organisations have been accredited, although about a dozen (mainly from Africa and Asia) have still not been approved. However, by working with NGOs who have consultative status with ECOSOC, everyone who wishes to attend the Open-Ended Working Group can do so.

During the 1996 session, indigenous peoples fought for the right for full participation at the meeting. After a walk out and subsequent negotiations, the Chair, using his discretion, allowed indigenous peoples the right to speak on their own behalf at the meeting and to have their opinions reflected in the report. Attendance and speaking rights are two out of the three areas of possible participation at the United Nations, and indigenous peoples forcefully demanded that they should be granted full and informed consent before any decision was made or article approved in the Open-Ended Working Group.

At the beginning of the 1997 meeting, the Chair carried out extensive consultations with governments and indigenous peoples and a compromise was reached. The meeting was to be divided into 'informal' and 'formal' sessions. No decisions would be passed on to the formal sessions until all participants, both indigenous and governments were in consensus. This agreement provided the indigenous participants with a de facto veto over any formal decision-making. After only a few days, it appeared that some governments regretted approving these procedures.

The governments and indigenous peoples who participate at the Open-Ended Working Group form different caucuses. The indigenous peoples' caucus is based on a group which has worked since the 1980s at the UN Working Group on Indigenous Populations. This takes the form of a two day preparatory meeting, the weekend prior to the Working Group which is arranged and facilitated thanks to the Mohawk representative Kenneth Deer, with logistical support from the World Council of Churches.

During the Preparatory Meeting this year, the indigenous caucus discussed their strategy and agreed by consensus to continue their defence of the draft Declaration as it stands. The indigenous representatives analysed the previous year's experiences and maintained their conclusion that the Declaration is a totality, interconnecting indigenous rights on a holistic basis.

During the meeting the Chair of the Working Group addressed the indigenous representatives and the procedures and agenda were discussed. Some indigenous representatives were concerned at the pro-

posed agenda suggested by the Chair whereby the 'non-controversial' articles would be discussed without any previous exchange of views on fundamental rights such as that of self-determination. However this theme links all aspects of the Declaration and to approve articles without having a sense of governments' support for the right of self-determination could risk the undermining of the whole Declaration at a future date after articles have been adopted. This was the subject of considerable discussion on the first day of the Working Group.

The indigenous caucus met every evening and at times during the meeting, indigenous representatives from three regions met together or with governments from their areas, such as North America, Latin America, Asia and Australia/New Zealand. Even though the discussion was always intense, the indigenous caucus worked constructively together throughout the meeting and demonstrated a flexibility and co-operation which resulted in a strong block for the defence of their rights.

The government alliances in 1996 formed blocks which underwent a substantial shift prior to and during the 1997 meeting. The 'western' group consisting of the Nordic countries, Europe, North America, Australia and New Zealand; the Latin American countries; and the Asian countries had formed three groups in 1996. During this year's Open-Ended Working Group, a new formation appeared. The 'western group' underwent a three-way split. The European countries such as France, the Netherlands, Germany and the United Kingdom spoke little, a new group called CANZUS (Canada, Australia, New Zealand and the United States) emerged, taking a markedly more conservative position in opposition to the Nordic countries.

This affected the overall framework of the meeting. The Latin American group was divided between those who openly supported the Nordic countries such as Bolivia, and those who supported the CANZUS group (Brazil and Argentina). The Asian group were quiet but when they did speak it was usually opposed to the CANZUS group and they became increasingly positive towards the draft Declaration during the two weeks of the meeting. Indeed, at various points in the discussion, India, Bangladesh and China (the main vocal Asian governments) said that in principle they had no objection to the text.

The agreement for the procedures of the meeting provided the indigenous peoples with a veto in all the informal meetings, whereas governments continued to hold decision-making powers in the formal sessions. This provided indigenous peoples with a strong veto in discussions on specific articles of the draft Declaration, but a weaker position when the final report was approved in a formal plenary session. This became apparent when indigenous peoples were not given the right to question whether the report represented the statements of governments in the informal sessions.

The Meeting

The first day of the meeting began with the re-election of Mr. José Urrutia as Chair of the Open-Ended Working Group. After the initial formalities, the meeting was adjourned. For the rest of the day the Chair negotiated with the governments and indigenous peoples over the procedures and the agenda for the meeting. The division into formal and informal sessions was agreed and after an extended discussion it was agreed that the meeting would be divided into general comments, a discussion of Article 3 on self-determination on the Thursday of the first week, and a debate on the principles and text of the less controversial articles: 15, 16, 17, 18, 43, 5, 14, 44, 45, 1, 2, 12 and 13. The final day would be devoted to discussion and approval of the report.

The General Debate

Indigenous representatives dominated the general debate. Only one government statement was made when China reiterated its previous position on the need for definition of the term 'indigenous'. The indigenous statements covered a broad spectrum of general approaches to the draft declaration and together constituted the philosophy behind the text.

Indigenous representatives emphasised that the draft Declaration should be seen as a whole with all of the articles linked together by the critical concept of indigenous self-determination, as established in Article 3. They explained that the text had been drawn up over a pe-

riod of more than ten years by experts with the full participation of indigenous peoples, and while it may not be perfect, it constitutes the minimum basis of standards for the protection of indigenous rights.

Several participants emphasised that the draft Declaration opens up new aspects of international law and stressed the importance of collective rights and respect for the cultural diversity of indigenous peoples. All who spoke made the demand that the draft Declaration be adopted as written and that indigenous participation in the whole UN process of approving the Declaration should be full and free.

The Discussion on Self-Determination

Article 3 of the draft Declaration says: "Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." Governments were more vocal in the discussion on this subject. Although there was some debate as to the wording of the article, practically all governments (with the prominent exception of the United States) accepted the article in principle.

Those governments which were most supportive were the Nordic countries (Denmark, Norway, Finland and Sweden), Fiji, Pakistan, Bangladesh, Switzerland, Bolivia, Colombia, Canada and New Zealand. Their concerns were that self-determination is consistent with their domestic understandings with indigenous peoples. For some countries, such as Colombia, this meant that in practice self-determination would take the form of autonomy, whereas for New Zealand, it would be framed by the Treaty of Waitangi. On the whole, however, these governments did not have any major problems with the concept.

Other governments supported self-determination but were concerned that it should not create any threat to the territorial integrity of the state. Mexico, Venezuela, Guatemala, El Salvador, Brazil and Argentina broadly held this view. The only country in the debate which unequivocally opposed the principle of self-determination for indigenous peoples was the United States. (In the final debate Argentina claimed that it agreed with the US, although in the government's state-

ment it clearly argued that self-determination, if it were to be accepted, should take place within the framework of the state.)

This constituted a considerable shift in governments' opinions from the year before. The Asian governments moved markedly into a more progressive position, while the Latin American governments were prepared to argue in favour of the principle of self-determination, providing that the territorial integrity of the state was protected.

In response, the indigenous representatives provided a broad account of self-determination which emphasised its importance and answered directly the concerns of the governments. All indigenous representatives emphasised that self-determination underlies all the articles in the draft Declaration and binds together the notion of indigenous peoples as collectivities. Self-determination embraces the informal nature of indigenous identity and daily life and also includes the determining of the relationship between the indigenous peoples and the state. The result is of equal partners in dialogue where the state makes no unwanted interference in the affairs of indigenous peoples.

Indigenous self-determination covers social, cultural and political areas as well as control over the use of their resources. Indigenous representatives throughout the discussion emphasised that they are peoples who should be recognised and treated as equal to all other peoples. To do anything else is racial discrimination. For this reason there should be no qualification on the right of self-determination for indigenous peoples.

A concern of some governments was the question of whether indigenous self-determination can be considered as 'internal' as opposed to 'external' self-determination for states. Indigenous peoples found this concept difficult to understand because all international activities, such as participation at the UN constitutes a form of external self-determination; all treaties carried out with states by indigenous peoples are also external self-determination; while for indigenous peoples, external refers to anything outside of their territories. For this reason, indigenous peoples felt that the internal/external distinction was a false dichotomy.

Indigenous peoples also responded to concerns of governments regarding territorial integrity. They pointed out that the UN Declara-

tion on Friendly Relations establishes clearly the conditions whereby states can secede and that those conditions provide the legal context for discussing concerns about peoples separating from states. Although the indigenous peoples in the meeting stated clearly that independence was not their particular aim, nevertheless their rights as peoples, equal to all others, should be embodied within the international legal framework and customary practices which respect state territorial integrity as well as the recognised conditions under which new states are formed.

Indigenous peoples felt that their points were strong and that the meeting should have no difficulty in recognising the principle of self-determination as a starting point for future discussion.

Discussion on Article 15 - Governments Try Some Drafting

Part IV of the draft Declaration (Articles 15 - 18) concerns education, public information, the media and labour rights. The Chair considered that this uncontroversial section might have been a starting point for adopting some of the articles of the Declaration. This hope was short lived. Whereas the government statements seemed to approve the whole section in principle inevitably one or two of them proposed changes to each article.

Indigenous representatives had made it clear that they would not accept any changes to the text. As all discussions took place in the informal sessions of the meeting and nothing could be approved without the consent of all participants, the constant demand by some governments to redraft the text led to no adoption of the articles.

Article 15 covers four features: indigenous peoples have the right to state education; they have the right to establish and control their own education systems and institutions; indigenous children outside of their communities have the right to education in their own culture and language; and states shall provide appropriate resources for these purposes.

Government concerns on Article 15 covered three main areas - all of which stood to weaken the article substantially. The United States, for example, insisted that all indigenous controlled education should

be subject to state minimum standards. An indigenous representative from Hawai'i immediately responded, conjuring up the vivid picture of government education inspectors following elders as they taught youngsters how to fish or plant.

Another concern, raised by Brazil, was whether bilingual education was practical in a country with over 170 different indigenous languages. A parallel point was made by several governments as to whether indigenous children outside of their communities could always have access to education in their own culture and language. Some governments did not like the aspect of the article which required them to provide resources for indigenous peoples' education.

Not all governments wanted to weaken the article. Mexico, Norway and Finland thought that a more direct reference to adult education would be strengthening; although indigenous representatives responded that the use of the term 'indigenous peoples' covers a comprehensive application of the text.

Indigenous representatives replied to the general points of the governments by arguing that the article refers to both access to state education and respect for and recognition of indigenous peoples' own education systems. Not to include both of these elements would violate the principle of the article. Regarding the support for indigenous peoples outside of their territories and the provision of resources for indigenous education, the indigenous participants responded that the Declaration is an aspirational document aimed at providing the impetus for states and indigenous peoples to work together to solve these difficulties, not a prescription for immediate solution.

This debate was the first informal session of the meeting. It became clear that there was no consensus with regard to the text. During the second day of the meeting, the CANZUS group began to float the idea of a drafting group. They met with the Chair and other governments, but this idea was quickly stopped by the Nordic countries because it was opposed to the agreement on procedure made at the start of the meeting. Throughout Tuesday and Wednesday of the first week, the CANZUS group called for meetings with the indigenous and other government blocks. They seemed eager to start on the process of draft-

ing. During these discussions, a new 'unattributable' draft for Article 15 was floated by the CANZUS group:

> "Indigenous children have the right to all levels and forms of education of the State *on the same basis as other members of the national community*. All indigenous peoples also have this right and the right to establish and control their own educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning *in accordance with applicable education standards*.
>
> Indigenous children living outside their communities *should have reasonable* access to education in their own culture and language. States *should provide* appropriate resources for these purposes."

The words in italics are added or subtracted from the original text which was considerably stronger. The indigenous reaction was quick to oppose this proposal because the suggested changes, particularly in the first paragraph would undermine the very principle of bilingual, bicultural education, embedded in the draft Declaration.

The Chair, after consultations, agreed to receive proposals for amendments to the draft Declaration, but he would not incorporate them into the formal meeting. After this episode, the discussion calmed down and looked at the rest of the articles in Section IV.

Discussion on Subsequent Articles in Section IV

Article 16 on education and public information was supported by all the indigenous representatives and practically all of the governments. Canada thought that it could be linked to Article 17 on the media, but otherwise there were no concerns regarding the text. The same reaction came concerning Articles 17 on the media and Article 18 on the application of labour rights to indigenous peoples. The US argued that Article 17 should emphasise non-discriminatory treatment by the media rather than equal access and Argentina thought that the text could be 'improved'. Otherwise there was no major disagreement. Article 18 was also broadly acceptable to governments. A few governments made minor suggestions such as wishing to reiterate the term 'adverse'

in front of the term 'discrimination'. Some governments wanted individual rights emphasised, but the indigenous participants pointed out that labour rights cover collectivities as well as individuals.

The Chair had hoped that some of the Articles in Section IV would have been adopted because they were the least controversial. In the general discussion at the end of the meeting, the Nordic countries proposed that, even though the section may not be perfectly drafted, for its first reading the text should be approved. This received some support from the positive governments such as Bolivia and Fiji, while many of the Latin American governments were moving towards this view. Unfortunately, the United States and the CANZUS group held out against adoption, and Brazil and Argentina followed suit. In this way an important opportunity for adopting some meaningful articles was lost.

Article 43 and 5 - The First Articles Are Adopted

At 11.40 a.m. on Wednesday 5th November, the Chair stopped the informal session and called the formal meeting to order. Everyone remained in exactly the same position and listened to the Chair say that consensus had been reached on Article 43 ("All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals"). He called for adoption of Article 43 and gavelled through approval of the first Article of the draft Declaration. No government opposed the article. By 11.41 a.m. the informal session had been resumed and discussed moved on to Article 5.

Article 5 states that "every indigenous individual has the right to a nationality". The governments were broadly in agreement with this, although several governments considered that the discussion on the right to belong to an indigenous community and nation in Article 9 and indigenous citizenship in Article 32 should be looked at in more detail at a later stage. Unfortunately, the United States representative wanted to resolve these questions immediately and said that Article 5 should refer to state nationality and not citizenship with an indigenous nation. This pre-empted the discussion and it became clear that a few

governments such as the US, Argentina and Brazil wanted the interpretation of articles narrowed.

The Chair brought the meeting to a consensus and the text was approved. However it became apparent that the principle of the Article was not interpreted in the same way by the US, Brazil and Argentina as by the indigenous peoples. The Chair pushed through the consensus by agreeing with the US representative to make a reference to his concern in the final report. In spite of this, the indigenous caucus was pleased that a second article had been approved.

When looking at the two approved articles, however, it quickly became apparent that they are two which deal exclusively with indigenous individuals and in fact add nothing to the international repertoire of provisions for indigenous peoples as a whole. Nevertheless, two articles were approved and this in itself was a historical step in the recognition of the Declaration on the Rights of Indigenous Peoples.

Articles 14, 44 and 45 - 'People' Raises its Head

Article 14 guarantees the right of indigenous peoples "to revitalise, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate their own names for communities, places and persons". Whereas the governments had no difficulty with this part of the Article, the second statement which involves state obligations encountered resistance: "States shall take effective measures, whenever any right of indigenous peoples may be threatened, to ensure this right is protected and also to ensure that they can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means."

To demonstrate the importance of the second part of this paragraph, Willie Littlechild, an indigenous representative from Canada spoke entirely in his own language and when the floor requested a translation, explained that this proved the necessity of adopting the whole of Article 14. Nevertheless governments complained that the second paragraph was 'not clear' or that they did not understand 'its scope'. These

are euphemisms for a desire to 'clarify' (i.e. limit) its meaning to reduce or even eliminate state obligations.

The Australian government tried to propose that throughout the text of the draft Declaration the word 'shall' be replaced by the more aspirational 'should', which he argued was the language of Declarations. However the indigenous delegation from Australia immediately responded by pointing out the Universal Declaration of Human Rights is full of 'shalls'. This reaction was but one example where indigenous representatives after 14 years of work on this text have shown themselves to be considerably more knowledgeable than most government representatives. Indeed they 'won' the arguments regularly throughout the discussion. Unfortunately, the final decisions were not based on logic or morals, but on politics, and this is where the rub occurred in the final paragraphs under discussion.

Article 44 says that "Nothing in this Declaration may be construed as diminishing or extinguishing existing or future rights indigenous peoples may have or acquire". Whereas most governments supported the text as it stands, the United States and Russia objected to the term 'future rights' - disputed immediately by indigenous representatives as this would limit the Declaration to all rights recognised until its adoption. However the main discussion on Article 44 arose when the government of Brazil opened up the question of the 's' on indigenous peoples, recommending that it be bracketed (recorded as undecided). The French government went even further and proposed a 'technical change' from 'peoples' to 'populations'.

This caused strong resistance among the indigenous representatives and many governments. Not only is the term peoples accounted for in the report, where the term is accepted by the Chair both with and without the 's', but it also opened up the question of bracketing words, which until now had been scrupulously avoided by the Chair in order not to create outrage among the indigenous participants. During the recess, some members of the indigenous caucus prepared posters similar to those used in the Vienna Human Rights Conference, consisting of a large 'S', which were displayed by indigenous peoples (and even some governments) during the subsequent debate.

Indigenous representatives stated clearly that certain governments were lingering over the fact that the draft Declaration must contain the rights of indigenous individuals. Mick Dodson from Australia pointed out that the Human Rights Committee and other treaty bodies in the UN such as the Committee on the Elimination of Racial Discrimination use the term 'indigenous peoples' with the 's'. Ted Moses, from the Grand Council of the Crees pointed out that not to recognise the 's' on peoples was an act of racial discrimination because indigenous peoples should be treated collectively in the same way as other peoples. Others pointed out that to view indigenous peoples as individual members of a minority population is wrong. In response both Brazil and France said that they accept the notion of collective rights, but still were not convinced about the term 'peoples'.

Article 44 was not adopted and a brief discussion on Article 45 followed, which states: "Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations". Most governments supported it, although Australia asked why it specified persons and groups and exclusively mentions the UN Charter. As there was no immediate response to this point, the discussion petered out. The debate on the draft Declaration was complete for another year. The only thing remaining was the report.

The Final Report

Although the first few pages of the final report had been available for several days, the rest of the text, although brief, was not produced until the afternoon of the final day of the meeting. The main discussion concerned the text describing the discussion on self-determination. The Chair had circulated a few preliminary drafts, but no one knew what he was going to propose. In the end the text in the report was very weak and rather than reflecting the discussion which actually took place on the floor, appeared to many as a politicised view of what certain governments wanted reflected.

Indigenous peoples had hoped that the report would reflect that practically all the governments with the exception of the US had ap-

proved the principle of self-determination for indigenous peoples. This would have demonstrated the broad consensus which the indigenous peoples had felt coming through the informal session. However, the Chair's text separated out states' positions, thereby weakening the extent of the support. The report read that "some States supported the principle contained in draft Article 3". The lists made by indigenous peoples showed that most States supported this view. The report then divided the states into those seeking more clarification, those with concerns over secession and those states (in reality one - the US, or maybe two if the ambiguous statement by Argentina were to be included) which opposed the principle of self-determination for indigenous peoples. This gave the impression that only some States supported the principle of self-determination. However when reading the report carefully in conjunction with the list, it is still clear that most states supported the principle of self-determination for indigenous peoples with the provision that clarifications be sorted out later. However, everyone at the meeting was quite clear that only the US was unequivocally opposed to the notion.

When indigenous peoples tried to point this out to the Chair, he ruled that only those parties directly referred to in the text of the report had the right to seek amendments. This meant that indigenous peoples could make no comment on how the governments were reported in the report. As a result, governments sought their own consensus based on the lowest common denominator of agreement, and indigenous peoples could say nothing, even though they considered that the agreed text was inaccurate. The result was increasing frustration in the indigenous caucus. When a few speakers were cut off, some stormed out of the meeting room as tempers frayed. Things calmed down later and the report was passed by the formal meeting. Although the report could have been stronger, indigenous representatives felt that they could change nothing more and that they had defended their rights to the limit.

Conclusion

The most significant progress made in the third Open-Ended Working Group was in the area of procedure. Throughout the whole discussion of the text indigenous representatives effectively had full and free participation, both in attendance, in speaking and in decision-making. However, this took place 'informally' and when the final report was discussed, the indigenous caucus felt that their participation was under strain.

Whereas indigenous peoples had a veto on any changes to the text of the draft Declaration with which they did not agree, in the end, they did not need to exercise this right, as there was no agreement among the governments over any articles apart from the two which were adopted. The push for changing the text centered around the CANZUS group, particularly the governments of the United States and Australia. The forceful way in which they tried to push for changes was seen by some other governments as obstructive. The US, in particular, became increasingly isolated throughout the meeting, to the extent that the CANZUS group alliance was looking decidedly shaky by the end of the second week.

As indigenous representatives left the third Open-ended Working Group, they could feel satisfaction that the text of the draft Declaration remains intact for another year. The co-ordination by the indigenous caucus in defence of the text was extremely effective throughout the meeting. As one leader from Australia said: "Every time the governments came up with arguments against the articles, we were ready for them".

After fourteen years of experience, it is clear that most of the indigenous representatives in the room were far more expert than the government delegates. Furthermore, as the instructions for government delegates often come from sections of the bureaucracy which are out of touch with indigenous questions, the political and ideological assertions stated by some governments often had neither factual nor logical substance.

As arguments arose from the government seats in the front, indigenous representatives were ready with lucid and succinct responses.

They related the government attack on the draft to other provisions of international law and connected the consequences of changes in the text to real events in their communities. Furthermore, two articles were approved and this does indicate that there has been some movement in the work of the Commission on Human Rights.

On the other hand, indigenous peoples realised that the meeting had not gone very far. Indigenous peoples had fought to prevent changes to the text, but they had wanted to identify some areas where consensus could be found, preferably in the text, but also in principle. However this was not forthcoming. The four articles on education, public information, media and labour rights were not very controversial, and with a bit more good will, the governments could have adopted a 'chapter' of the Declaration. Another missed opportunity was that the meeting, with further negotiation and discussion, would have come close to accepting a proposal by the government of Denmark that the right of Self-determination for Indigenous Peoples be recognised in principle.

These two agreements would have sent an important message to indigenous peoples and their communities, demonstrating the good will of governments and an important desire to move forward with the draft Declaration. The approval of controversial parts of the text in principle would also have shown that there was some agreement on the rights of indigenous peoples enshrined in the draft Declaration. Unfortunately this did not take place. The two articles adopted were, in fact, fairly innocuous as they do not relate specifically to indigenous peoples, but rather to any individual living in a state.

Nevertheless, the attitudes of many governments have undergone a markedly progressive shift over the last year, particularly those of Asia and some Latin American countries such as Venezuela. However it is uncertain whether this constitutes a permanent change or just annoyance at the antics of the CANZUS group. Nevertheless, there was a feeling that the governments were on the whole more constructive during 1997 and hopefully this will continue in future years.

Meanwhile indigenous peoples are discussing their current position further and working on strategies for defending the draft Declara-

tion for next year. As several representatives said: "We can only take it one year at a time".

Government Positions

Warm means that the governments broadly accept the text. *Lukewarm* means that the governments accept the principles but would like some minor changes. The *tepid* countries are consistent on most points but would like substantive changes in certain areas, whereas the *cold* participants want substantive changes on major rights such as self-determination, territorial rights or collective rights as a whole. # means a worse position than 1996 and * means an improvement.

Cold	Tepid	Lukewarm	Warm
Active Participants			
Argentina	Australia #	China *	Colombia
Brazil	Venezuela	New Zealand *	Finland
France	Bangladesh *	Sweden *	Bolivia
Japan		Russia	Denmark
USA		Canada	Norway *
		Mexico	Fiji
		Chile	Pakistan *
		India *	
		South Africa	
		Kenya	
		Estonia	
		Panama	
		El Salvador	
		Ukraine	
Silent Countries			
Nigeria	Indonesia	Philippines *	Cuba
	Malaysia	Spain	Nicaragua
	Germany	United Kingdom	
	Nepal	The Netherlands	

This general table made over the last two years has been developed further by several participants at the meeting into one broken down into themes.

THE 54TH SESSION OF THE UN COMMISSION ON HUMAN RIGHTS

By Jens Dahl and Lola Garcia-Alix

The 1998 meeting, which took place in Geneva from March 16 to April 24, has attracted a large number of representatives both from member governments and observer governments. Compared to the situation only a few years ago, the number of government representatives has increased significantly, especially from Eastern European and Third World countries. This could mean that more governments participate (there are now more regular members of the Commission compared to the situation some years ago), but the reason could also be that each governments send more delegates. Last, but maybe not least, it can also be explained by a more regular participation of the government delegates.

What supports the latter interpretation is an observation about the way governments participate in the meeting. We still remember the first time we took part in the CHR meeting in 1990. At that time, when the meeting was on, maybe half of the government seats were occupied; the others were empty while the representatives were either not in the building or sitting in the coffee lounge. Furthermore, fewer governments had officially registered their participation in 1990 as compared to this year.

We also recall that in 1990 when one of the NGOs had the floor many of the government representatives took off their earphones or started to read the Financial Times or another newspaper, or they simply walked out of the room. This is different today. Now, the government representatives are in the room most of the time and they listen to the speeches, even by the NGOs. It is, of course, still the case that some governments (such as the US) and some NGOs (such as Amnesty) are listened to more than others. But the interest from the governments has obviously increased.

This trend is worth noticing. First of all because it can be interpreted as a sign of governments becoming much more interested in

human rights issues, and also that the position and influence of NGOs has increased. However, there is also a trend that there are now so many NGO speakers on some of the agenda items that their presentations drown. Some days, the meeting went on until midnight.

With the increased number of government representatives physically being there in the room, it follows that the NGOs are less visible. The government members (53) of the CHR sit in the front of the semi-circular room. Behind them are delegates of observer governments. Observer governments have the same rights as the member governments, except that they cannot vote (which is often not called for). Behind the governments are the non-member states (Switzerland and the Holy Sea) and the United Nations bodies such as the High Commissioners, UNICEF, UNEP, etc. In this group we also find the specialised agencies such as the ILO, IMF and others. Further behind these, we have the intergovernmental organisations as, for example, the Council of Europe, the Arab Labour Organisation, etc. There is one liberation movement (from Palestine) and a few other organisations such as the Red Cross and the Order of Malta. Furthest back in the room there are the various types of accredited NGOs.

While the group of NGOs used to occupy more than a third of the room, there are now very few seats available for them and they have to squeeze in between the press in a separate annex to the main floor.

This year, the South African chairman was very strict in not allowing people to walk around the room nor to stand behind and talk. From an NGO point of view the implication is that it has become more difficult to lobby government delegates and to approach them while they are in their seats. On the other hand, it gives the feeling of a more serious meeting.

The hierarchy between governments and NGOs has been given a new dimension. A digitalised signboard now indicates how much time is left for the speaker who has the floor. So, it is now also visually clear that governments are allowed to speak for 10 minutes and NGOs for 5 minutes.

The Agenda of the 54th Session of the UN Commission on Human Rights

This was the third time indigenous issues were considered as a special item since the Commission decided to add this to its agenda in 1996. This year, indigenous issues were item 23 on the agenda, scheduled for the 26th and 27th of March. The voting on resolutions for this item took place on the 9th of April.

Agenda Item 23: 'Indigenous Issues'
Under item 23, the annotations to the provisional agenda noted four major topics to be considered:

- *A Permanent Forum for Indigenous Peoples:* In its session last year, the Commission on Human Rights requested the High Commissioner to convene the second workshop on a Permanent Forum for Indigenous Peoples in the United Nations System. The second workshop was held in Santiago de Chile from 30 June-2 July. The Commission also requested the High Commissioner to transmit the report of the Workshop to the Working Group on Indigenous Populations (WGIP), inviting it to express its views and to submit a report, together with any comments arising from discussions in the Working Group, to the Commission's session this year. As documentation for this sub-item, the report from the Santiago workshop and its annexes, as well as the report from the 15th session of WGIP, were distributed.

- *Working Group of the Commission on Human Rights to elaborate a draft Declaration on the Rights of Indigenous Peoples:* In 1995, the Commission decided to establish an open-ended inter-sessional working group of the Commission with the purpose of considering the draft Declaration on the Rights of Indigenous Peoples, elaborated by WGIP and approved by the Sub-Commission in 1994. The inter-sessional WG met for the third time in Geneva from the 27th of October to the 7th of November 1997 (see report by Jens Dahl and Andrew Gray in this volume) and as in previous years, its report was submitted to this session of the Commission on Human Rights.

- *International Decade of the World's Indigenous Peoples:* In December 1994, the General Assembly proclaimed the International Decade of the World's Indigenous Peoples. The General Assembly adopted a Programme of Activities for the Decade. The Commission on Human Rights, at its session last year, invited the High Commissioner for Human Rights to submit a report to its fifty-fourth session
- Resolutions and recommendations of the *Sub-Commission on Prevention of Discrimination and Protection of Minorities* regarding indigenous issues.

Indigenous Participation

Indigenous participants began arriving in Geneva on March 24 and 25. On the day of the last indigenous caucus on March 26, there were 29 indigenous representatives. The majority of the representatives were from Canada, United States, and Central and South America. Unfortunately, there was only a small representation from Asia and the Pacific.

The Fund for the Human Rights of Indigenous Peoples financed the participation of 9 of the indigenous representatives from India, Philippines, Canada, Guatemala, Chile, Panama, Mexico, and the Solomon Islands. Except for the two representatives from Chiapas (Mexico) who participated in the discussions on item 10 (which took place on 14 April), all the others were in Geneva on the 25th, to participate in the discussion on item 23 on March 27.

Tuesday 24th of March: First Indigenous Caucus:

This first meeting was convened by the International Indian Treaty Council. The first matter decided was to have daily meetings until the 27th, the day scheduled for discussion of the item on indigenous issues. This meeting was merely of an informative nature regarding the topics to be discussed under the agenda item on 'Indigenous Issues' and there were 16 indigenous representatives present. The organisers invited a person from the staff of the UN Office of the High Commissioner for Human Rights to give a presentation of the issues.

With respect to the resolutions on the Permanent Forum, it was reported that to date there was only one draft resolution made, the one by the government of Denmark for the Commission to establish an ad-hoc intersessional group to elaborate a mandate for the Permanent Forum to be presented to the Commission at its next session.

Indigenous representatives present decided to invite the representative of Denmark to the meeting accorded for the next day, in order to be informed in greater detail on the Danish proposal and to discuss a possible indigenous strategy on the topic.

It was also reported that Mary Robinson, the High-Commissioner, had been designated by the General Assembly as Coordinator for the Decade and is to present a report on the progress of the Decade. Some indigenous representatives asked whether there were concrete plans to hold a 'mid-term evaluation' of the Decade. There was a majority opinion among participants on the importance of this evaluation being carried out within a maximum time frame of one to two years.

The representative of the International Indian Treaty Council, moderator of this meeting, reported that some indigenous representatives had requested the High Commissioner for Human Rights to meet with those indigenous representatives present in Geneva, and that the meeting would take place on the 25th at 10 a.m.

Wednesday 25th of March

Meeting with Mary Robinson, High Commissioner for Human Rights. The High Commissioner regretted that, due to a tight work schedule, she only had 25 minutes to hold a dialogue with indigenous representatives. She expressed her satisfaction at meeting with indigenous representatives, and said that she hoped that this type of meeting could be held regularly during other meetings that indigenous representatives participate in.

She pointed out the importance of the work of the indigenous peoples' unit of her office, and regretted the lack of economic resources within the United Nations regular budget, but signalled that there was much work being done to obtain external financing. In this respect, she reported that the government of Holland had decided to support economically the 'fellowship programme' by financing one to two

persons for its coordination. The governments of Austria and France have also offered to finance programmes in the indigenous peoples' unit. She also signalled the importance of government donations to the Voluntary Funds for the Decade and the WGIP, and reported on her work to achieve this objective, asking that indigenous representatives request donations from their governments for the Voluntary Funds.

The representatives from Australia and Canada invited the High Commissioner to visit their peoples during the High Commissioner's planned visits to these countries, scheduled for 1998-99. Other indigenous representatives pointed out the importance of her role as mediator in critical situations affecting indigenous peoples. In this respect, the representatives of the Ogoni people asked her to take concrete action to alleviate the suffering of their people. South American representatives also requested her mediation in the cases of Chiapas and Colombia.

Second Indigenous Caucus

This second meeting included the presence of those indigenous participants who had arrived in Geneva the previous day, increasing the number of indigenous representatives present to 24.

The main issues discussed at this meeting were:

Accreditation of indigenous representatives. Several indigenous representatives signalled the importance of indigenous representatives actually taking the floor on item 23. To that point in time, only 7 indigenous representatives had signed up to give a statement. It was agreed to ask different NGOs with UN consultative status to give IWGIA's speaking rights to indigenous representatives on this agenda item.

The draft resolution on the Permanent Forum by the government of Denmark. The head of the Danish delegation, made a presentation on the draft resolution that the CHR establish an 'ad hoc' working group. The mandate of this 'ad hoc' group would be to elaborate and consider proposals for the mandate of a Permanent Forum. This working group would submit its report to the next session of the Commission on Human Rights, to consider forwarding it to ECOSOC.

363

All the indigenous representatives who intervened after the presentation of the Danish representative expressed their support of this proposal, which corresponds to the views expressed by indigenous representatives during the workshops in Copenhagen and Santiago and the regional meeting in Temuco and Kuna Yala. The Danish government would continue to hold discussions with governments until 6 April, the deadline for submitting draft resolutions on item 23. Indigenous representatives expressed their interest in the Danish government being kept informed of developments in negotiations.

Study on Treaties. Miguel Alfonso Martinez, representative of the government of Cuba and member of the Sub-Commission and Working Group on Indigenous Populations, was also invited to this meeting. The Cuban representative reported that he hoped to be able to present his final report on the Treaty Study during the next WGIP session.

He stated that his interest in being present at the current meeting was to hear the views of indigenous representatives on the situation of the Declaration on the Rights of Indigenous Peoples and the establishment of a Permanent Forum. With regard to this, he said that there was a recommendation from the Sub-Commission that this topic be discussed in WGIP, and that he would like to hear the views of indigenous representatives accordingly.

Regarding the *Declaration on the Rights of Indigenous Peoples*, the representative of the Grand Council of Crees, reported on the last meeting of the Working Group. He expressed his concern regarding the situation in which the process currently finds itself, wherein governments, particularly those assuming the position of the so-called CANZUS group (the group of governments from Canada, Australia, New Zealand and USA), are obstructing the establishment of a constructive dialogue.

With respect to a possible strategy, the representative of the Indian Law Resource Center, made an analysis of the current situation of the declaration and raised the question as to how to proceed with the work toward the adoption of a strong and effective declaration. He suggested that indigenous peoples and governments make a commitment to what they would call an 'ethical engagement', that is opening up a process

of discussion with governments toward acquiring the adoption of the strongest possible declaration.

In response, indigenous representatives reasserted their obligation to keep the integrity of the document, but agreed upon the necessity to analyse and discuss a consensual indigenous strategy before the next meeting of the working group on the declaration. With respect to this, it was pointed out that there is a need for an indigenous strategy in as much as governments are already elaborating their own strategy.

Thursday 26: Third indigenous caucus

The central point was the preparation of indigenous interventions under item 23. Everyone was in agreement that the central themes were the importance of the rapid adoption of the declaration and the establishment of an 'ad hoc' group to elaborate a mandate for the Permanent Forum. The representatives of Central and South America presented the results of the Second International Indigenous Conference held in Panama, and signalled the importance of holding regional conferences on this topic. Representatives from Asia and New Zealand reported that they are preparing a regional conference in Asia and another in Fiji for the Pacific region.

The group of indigenous representatives from Central and South America presented to the caucus for its approval an indigenous declaration that requests the establishment of an 'ad hoc' group to elaborate a mandate on the Permanent Forum. This declaration was accepted by all the participants, and it was decided that it would be distributed to all the governments present at this session. Everyone present was encouraged to talk to their governments and request support for the draft resolution of the Danish government. In this regard the representatives from South and Central America reported on their meeting with the GRULAC (group of Governments form Latin America and the Caribbean) and said that Chile, Bolivia, Mexico, Argentina and Guatemala were positive to the establishment of the 'ad hoc" group while Cuba, Peru and Brazil expressed a strong opposition to the Danish draft resolution.

Several indigenous representatives expressed their concern that certain governments had the intention of removing the item on 'Indig-

enous Issues' from the Commission's agenda, pointing out the need to highlight the importance of having a separate item on indigenous issues on the agenda.

The UN Commission on Human Rights: Discussion of Item 23 'Indigenous Issues'

The item was opened on Thursday 26th with Ambassador Urrutia's presentation of the report of the Working Group on the Declaration and continued on Friday 27th . Altogether, 15 governments and 30 NGOs spoke on this item, which ended on the 27th of March, after extension to an evening session on the 27th of March.

Ambassador Urrutia opened the agenda item, reporting on the Third session of the Intersessional Working Group. Ambassador Urrutia said that the working group faces a double challenge, that is the establishment of an atmosphere of trust between governments and indigenous peoples, and the achievement of concrete results. He pointed out that some things had been achieved, especially with regard to the method of work approved at the last session, adopting the structure of formal and informal sessions. The participation of 123 indigenous organisations and NGOs give this working group a special sense of legitimacy.

He stated that there had been concrete and substantive progress made with the adoption of articles 43 and article 5, that other articles had been debated, and that amendments had been proposed that should be debated during the next session. With regard to this, he signalled the importance of the discussion on Article 3, that refers to the self-determination of indigenous peoples. According to Urrutia, the results were satisfactory and he requested the Commission to continue the work although a simple renewal of the mandate would not be enough. A commitment to flexibility among governments and indigenous people would be necessary; and he concluded by stating that the text can and should be improved. Governments as well as indigenous peoples have the responsibility to overcome difficulties.

366

Friday 27th of March

The session on the 27th was dedicated wholly to the item on Indigenous Issues. Among the governments, New Zealand did not make concrete reference to the topic of the declaration nor the Permanent Forum, but reiterated its commitment to international initiatives to improve the situation of indigenous peoples.

Canada expressed its gratitude to the Chair of the Working Group on the Draft Declaration for his efforts in supporting the dialogue during the intersessional Working Group on the Declaration. It pointed out the need to establish a more constructive dialogue around the declaration, and expressed the need for governments as well as indigenous peoples to take a more constructive attitude during the next session. Canada expressed its hope that a strong declaration would come out of this working group and presented a draft resolution for the Intersessional Working Group of the UN Commission on Human Rights to continue its work in 1998.

Among the Latin American governments, Argentina, Chile, Guatemala and Bolivia expressed their commitment to follow-up on the objectives of the Decade: the adoption of the declaration and the establishment of the Permanent Forum. With respect to the latter, they expressed their support of initiatives that would serve to advance discussions on this topic, and accordingly, said that the draft resolution of Denmark could serve to continue discussions. On the other hand, Brazil said that it was too soon to take any decisions on the subject of a Permanent Forum, since to date, there had not been sufficient discussions on the need to establish a body of this nature. Cuba supported the decision of the Sub-Commission that the WGIP be the forum for discussing those topics not yet defined regarding the 'possible' establishment of a Permanent Forum. Russia also expressed its support to the subject of the Permanent Forum being discussed at WGIP. The intervention on behalf of Nordic countries was made by Greenland's Prime Minister, Mr. Jonathan Motzfeldt. In his presentation, he said that the recommendation of the Vienna World Conference to establish a Permanent Forum, after having held two seminars on the subject, is at the stage of taking concrete action, and suggested that the Commission establish an ad hoc group to elaborate a proposed mandate. With

relation to the Working Group on the Declaration, he said that the adoption of two articles represents a step in the right direction, but that it is necessary to accelerate the process if the declaration is to be adopted within the time frame of the International Decade. He urged governments to work in closer cooperation and consultation with indigenous peoples toward the swift adoption of the declaration.

Many strong and significant interventions were made by indigenous representatives. It should be noted that the indigenous representatives present did not have difficulty getting the necessary accreditation through different NGOs with consultative status. Everyone, after thanking the NGO for offering the opportunity to take the floor, then spoke in the name of their own organisation.

The great majority of statements made reference to the topics of the rapid adoption of the declaration in its current form, and the establishment of a Permanent Forum. With respect to the declaration, concern was expressed over the delay in its adoption and the efforts of many governments to 're-draft' it, despite the opposition expressed by indigenous peoples. The representative of the organisation Kuna Napguana, and regional coordinator of the International Alliance of the Indigenous and Tribal Peoples of the Tropical Forests, intervened under IWGIA. In his statement, he referred to the results of the Second Indigenous Conference in Panama, and considering the recommendations made by the official seminars and the regional indigenous conferences held in Central and South America, supported the recommendation to establish an ad hoc group that would elaborate a draft mandate, structure and implementation of a Permanent Forum.

With regard to the Decade, some indigenous interventions made reference to the need for a 'mid-term' evaluation of activities.

Although the majority of last year's interventions made reference to the problem of participation, this year only a few indigenous interventions made minor references to this issue.

9th April: Voting on Resolutions on Item 23

Most of the indigenous participants left Geneva when the Commission had discussed item 23. The two most important issues to be voted on under this item of the agenda were the Draft Declaration and the

368.

Permanent Forum. Concerning the Draft Declaration, the report of the intersessional working group ("Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994") was accepted and a resolution (drafted by Canada) proposed that the intersessional working group continue its work.

The other controversial indigenous issue this year was the proposal for the establishment of a Permanent Forum for indigenous peoples. The proposal for a Permanent Forum under Ecosoc came originally from indigenous peoples and was then endorsed by the Danish government who brought it into the Commission on Human Rights.

The resolution drafted by Denmark-Greenland proposed, first of all, the establishment of an *ad hoc working group* under the CHR to elaborate and consider proposals for a Permanent Forum. The idea is that this ad hoc group should finalise its work within one or a maximum of two years and then present its report with suggestions to the CHR in order for it to be forwarded to Ecosoc.

Indigenous peoples all supported this process although they would have preferred the immediate establishment of a working group under Ecosoc. It should be born in mind that this took place in opposition to the decision taken by the Subcommission which would have taken the further dealings with the Permanent Forum down to the WGIP. This proposal came originally from the Cuban member of the WGIP (and Subcommission member), who strongly opposed the Danish resolution by lobbying for the CHR to return the discussion on the Permanent Forum to the WGIP, a step which had been opposed by indigenous peoples in general.

After the debate on item 23, the Danish and Greenlandic delegates lobbied for the Danish resolution, but since basically all indigenous peoples had left, there was very little lobbying on their part. If this is combined with the observations as referred above, that governments have become more and more interested in human rights issues, it is worth remembering in the future that the opportunities of indigenous peoples to lobby might have been improved. The process to establish the Permanent Forum and to have a far-reaching Declaration adopted

will be extremely difficult, and the necessity of indigenous lobbying cannot be underscored enough.

The resolution of the Permanent Forum was drafted by Denmark and proposed by all the Nordic countries. It was then co-sponsored by Argentina, Bangladesh, Bolivia, Canada, Chile, Cyprus, Estonia, Greece, Guatemala, Honduras, Latvia, Lithuania, Mexico, Nepal, Portugal, Russia, Spain, Switzerland and Ukraine, and a few members added their names to the list in the end (Only Argentina, Bangladesh, Canada, Chile, Guatemala, Mexico, Nepal, Russia and Ukraine are members of the Commission). It is worth noting that Bangladesh and Canada were among the supporters of the resolution. The reason for Bangladesh joining could be a sign indicating that they consider that the so-called peace process in relation to Chittagong Hill Tracts gives them a new international human rights profile (so far, Bangladesh has not recognised the term indigenous peoples being used specifically about the peoples in the Chittagong Hill Tracts).

Before the resolution on the Permanent Forum came to a vote, a number of consultations took place between governments. In spite of the fact that a few changes were made to make the resolution acceptable to the USA, they nevertheless continued to demand changes which would have made it useless. In the end it seems as if they gave up, but the voting developed into a real drama.

On the morning of April 9, three resolutions on indigenous peoples were put to the floor. The first one (on the WGIP and the decade) which was put forward by New Zealand was adopted unanimously. The second resolution (on the intersessional working group) was drafted by Canada and was also adopted without voting. In their explanation for the resolution, Canada stressed that they were in favour of a "strong declaration". The third resolution (on the Permanent Forum) was put forward by Denmark. As soon as the Danish delegate started his explanation, Cuba asked for the floor (by raising the country's name tag).

The voting procedure in the Commission on Human Rights is the following: 1. The chair announces the suggested resolution. 2. The sponsoring country gives a short explanation. 3. Countries that co-sponsor the resolution are mentioned by the secretary who also ex-

plains how other countries can add their names as co-sponsors. 4. The chair asks if there are members who want the floor for short general comments (NB: only member states can speak when a resolution is put to the vote). 5. When all who wish have spoken the sponsoring country will, eventually, be given the floor. 6. The secretariat takes the floor to explain the financial implications of the resolution. 7. The members are given an opportunity to explain their votes. 8. The chair asks if any member wants a vote to take place. 9. If not, the resolution is adopted unanimously (without a vote). If only one country demands it, a vote takes place. 10. If only one country demands it a vote by naming takes place. 11. Any member can return and explain their vote.

The procedure may be helpful in understanding the confusion which followed the adoption of the resolution on the Permanent Forum.

When the explanation of the resolution on the Permanent Forum was over, Cuba had the floor. The Cuban representative delivered a long speech explaining his worries about the financial implications of establishing this new working group which should do the same work that already takes place in the WGIP and he appealed to the co-sponsors for explanations on a number of issues. He found that it was premature to establish an ad hoc working group which should discuss the Permanent Forum before it was decided how this should be structured and he also said that there was no reason to have this group since the sub-commission had decided that the future discussion on this matter should take place in the WGIP.

After Denmark had responded, France took the floor and asked why this resolution could be adopted when all other new initiatives had been brought to a halt until the financial implications were known. The secretariat then took the floor and explained that this resolution had no financial implications.

Again, the Cuban representative took the floor and went on and on. When Denmark appealed for a unanimous decision, the chair asked Cuba, Denmark and the secretariat to meet over lunch and reach an agreement on the financial matter.

After that there was a vote on three recommendations from the Sub-commission. Two proposals in favour were adopted, but the one which proposed that the Permanent Forum should be dealt with by the

WGIP was postponed. This was decided despite protests from the Cuban representative.

During lunch time, Cuba had asked for a change to paragraph two in the Danish resolution. This was accepted, but when the meeting was convened Cuba again asked for the floor and explained that they could not accept the resolution. Denmark then asked for a vote. When the chair now asked if there was any country that asked for a vote, not even Cuba raised its hand. This was obviously confusing for the chair, but it was then adopted unanimously.

After that the vote on the remaining item from the Sub-commission was to take place. Now the Cuban representative also wanted this to be adopted although the Danish-Greenlandic resolution had made it obsolete. When a member state asked for financial implications of the WGIP dealing with an issue which it was decided should be dealt with in a work group directly under the Commission, the chair concluded that the proposal was rejected. Cuba then again asked for the floor with a new intervention, but was turned down by the chair.

The controversial text in the resolution on the Permanent Forum is paragraph 4 which now reads: "*Decides* to establish an open-ended inter-sessional ad hoc working group, from within existing overall United Nations resources, to elaborate and consider further proposals for the possible establishment of a permanent forum for indigenous people within the United Nations system". Japan explained its vote by saying that they were against a permanent forum, but that they would come forward with their opinions in the ad hoc working group. USA explained their vote by saying that they understood paragraph 4 to mean that the ad-hoc working group could also consider the WGIP.

It is assumed that the ad-hoc working group will meet in either January or February next year. One important issue that is still unresolved is the appointment of the chair of the ad hoc working group.

TOWARDS A EUROPEAN POLICY ON INDIGENOUS PEOPLES AND DEVELOPMENT CO-OPERATION

By Birgitte Feiring

Introduction

The European Union is the world's biggest donor of development co-operation, both through the national agencies of its Member States and through the European Commission. The role of indigenous peoples in development processes has received increasing attention during the last decade, as it is recognised to be of great relevance for the general objectives of European development co-operation: Poverty reduction, sustainable development and the observance of human rights.

Recognising the importance of the issue, several Member States of the EU, such as the Netherlands, Germany, Denmark and Spain, have developed specific strategies and policies for their co-operation with indigenous peoples. Some of these countries have raised the issue in the EU, in order to ensure a common European position. In June 1997, these efforts showed their first result: The Council of Ministers decided to invite the European Commission to prepare a policy paper on co-operation with and support to indigenous peoples in European Development Co-operation. Based on this policy paper, the Council of Ministers will adopt a resolution, which will guide the Commission and the Member States in their future development co-operation with indigenous peoples.

Structure of the EU

In order to follow the process towards a European policy, it is useful to have a general overview of the different EU institutions:

The European Commission is the executive body of the EU. The Commission is based in Brussels, Belgium, but has representative delegations in many countries throughout the world. The Commission is divided into a number of 'Directorates

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General' (DGs), each holding different responsibilities. The DGs of most interest for indigenous peoples in developing countries are DGVIII, responsible for development co-operation with Africa, Caribbean and the Pacific, DGIB, responsible for co-operation with Asia and Latin America and DGXI responsible for the environment. These DGs administer a number of budget-lines, which finance projects and programmes involving or affecting indigenous peoples.

The right to propose new legislation in the EU also lies with the Commission. It is therefore the Commission which has the responsibility for developing a EU policy paper on indigenous peoples in development co-operation.

The Council of Ministers is the forum where most decisions are taken, as all new legislation in the EU has to be approved by the Council. The Council is comprised of a Minister from each of the Member States. Different Ministers participate in the Council meetings according to the topics on the agenda (environment, education, health etc.). The issue of indigenous peoples and development co-operation is being treated by the Council of Ministers of Development Co-operation.

The European Parliament has until now had a limited influence in the EU. The Parliament has to be consulted in a number of cases and has co-decision powers on a number of topics. But unlike other Parliaments, it does not have the right to propose new legislation. The Parliament has for several years paid attention to indigenous issues and urged the Commission to take action.

The Process in the Commission

Following the invitation from the Council of Ministers, the Commission started to work on a policy paper on indigenous peoples in October 1997. The work was undertaken by DGVIII, unit A 2, dealing with human and social development. In short, the process was divided in the following stages:

374 BEST COPY AVAILABLE

- In February 1998 a draft document had been developed in the Commission and was distributed to more than 200 indigenous organisations in an open consultation
- In March 1998 the Commission invited 30 indigenous experts from 27 developing countries to participate in a workshop in Brussels and exchange views with Commission staff.
- Later in March the draft document was discussed in a workshop with experts from the Member States of the EU.
- In April the draft document was amended according to the comments received from indigenous peoples and Member States' experts, and the final document translated into all Member States' languages.
- In May 1998 the Document was presented to the Council of Ministers. It is foreseen that the Council of Ministers will adopt a Resolution on the subject as soon as possible (July 1998).

Short Summary of the EU-Document

The final document, called 'Working Document of the Commission on indigenous peoples and development co-operation', is available in its full length through the European Commission. Only some of the most important points and arguments will be summarised here.

Scope of the proposed policy. The proposed policy addresses the question of indigenous peoples and development co-operation. This is a geographical and thematic limitation, whereby the policy excludes indigenous peoples in so-called developed countries. There are also a number of indigenous problems, concerns and aspirations which cannot be solved by development co-operation, but must seek solution in other fora at the local, national or international level. The proposed policy should therefore be seen as a pragmatic step, suggesting a general policy framework, which hopefully can contribute towards the solution of some of the problems faced by indigenous peoples.

Main arguments. The document is based on the following main arguments:

Many indigenous peoples live in areas which are crucial for the conservation of the environment and its biological diversity. Their societies are in general non-industrial, and they maintain social and cultural practices which allow for a sustainable use of the resources. As distinct peoples they hold their own diverse concepts and aspirations as to the development process. On the other hand indigenous peoples are marginalised both politically, culturally and economically and they suffer from recurrent violations of their human rights.

In sum, special attention should be given to indigenous peoples in the development process because:

- Their cultures and identities are invaluable and necessary contributions for achieving sustainable development.
- They play a key-role regarding the conservation and sustainable use of biological diversity.
- They possess a special vulnerability to being disadvantaged in the development process.

Identification. The policy proposes to pay special attention to indigenous peoples, and it is therefore important to understand *who* they are. The United Nations estimates that indigenous people number a total of 300 millions, living in more than 70 countries. But the meaning, definition and implications of the concept 'indigenous' is a theme for ongoing discussions. In Latin America the concept refers to a given point in history, when colonisers overruled local societies: Descendants of those who first inhabited the continent are the indigenous of today. But in Africa and Asia the picture is more complicated. There the current interpretation of the concept suggests a certain structural relationship between the group and the nation state. Perhaps it is impossible to measure whether the Maasai or the Pygmies arrived in a given area before other ethnic groups - but they will share many of the features which in practice characterise indigenous peoples:

- Historical continuity with pre-colonial societies
- Strong link to territories
- Distinct social, economic or political systems
- Distinct language, culture and beliefs

- Form non-dominant sectors of society
- Identify themselves as different from national society
- Link to the global network of indigenous peoples

The EU document acknowledges that there is no universal definition which can embrace as different peoples as the Inuit of Greenland, the Adivasi in India, the Quechuas in the Andean region etc. It must be up to the local actors to explore and define the local implications and connotations of being indigenous, and the EU must avoid imposing the concept of being indigenous in any local context where the implications can be potentially negative.

Objectives. The objectives expressed in the policy are balancing between two considerations which might seem contradictory at the first glance. On the one hand indigenous peoples are marginalised, they are poor, their human rights are often violated and they are often excluded from the decision-making processes. On the other hand they reaffirm their distinct indigenous identity and reject any attempt of forced assimilation into the mainstream society. The challenge for development agencies is thus to include indigenous peoples in the development process *and* respect their own visions and priorities for development. This implies a fundamental respect for cultural diversity and the recognition of the diversity of the development concept itself.

The overall objective of the proposed policy of the European Commission reflects this ethical aspect, as it aims at:

- Enhancing indigenous peoples' right and capacity to control their own social, economic and cultural development.

Experience suggests that development co-operation which overlooks the special situation of indigenous peoples will often lead to negative results. This can e.g. be forced resettlement, loss of vernacular language or ethnic violence. The more pragmatic objective of the policy is therefore to:

- Improve the positive impact of European development policy on indigenous peoples, integrating the concern for

indigenous peoples as a cross-cutting aspect of human empowerment and development co-operation.

Implementation. The policy proposes to integrate the concern for indigenous peoples as a cross-cutting issue at all levels of European development co-operation instead of creating a special budget-line. To 'isolate' indigenous peoples in a special budget-line would be to marginalise the issue and only link it to the 'traditional small-scale development project'. To integrate the concern for indigenous peoples at all levels means to take special considerations in instruments such as policy dialogue between EU and partner countries, trade relations, structural adjustment programmes, sectoral programmes, projects etc. This is an enormous challenge, which will require time, resources and further research, as most considerations concerning indigenous peoples have been linked to the 'project level' There is an urgent need for research on how to assess the impact of macro-economic interventions on indigenous peoples, how to ensure their participation in these processes, and how to reflect their needs in sector programmes.

The document proposes a general policy framework and recognises the need for further action in order to implement it properly. Like most big institutions the Commission suffers from lack of coherence and coordination in its activities, lack of detailed knowledge of local conditions, restricted resources and slow and rigid administrative procedures. It takes time to change the practice of such big institutions and indigenous peoples should be aware of the role they can play in this implementation-process.

The project level. At the project level there seems to be general agreement on the elements which should be applied when addressing indigenous peoples. These are:

- the prior consultation with indigenous peoples
- their informed consent to envisaged activities
- their full participation throughout the project cycle
- the use of culturally appropriate means of communication
- the adjustment of activities to the indigenous notion of time and decision-making.

However, to achieve this full and free participation in the development process is still not an easy task:

Complicated partnerships. Indigenous groups are not homogenous and have no single formal institutional network to identify or legitimate authority. In many indigenous societies there is a layering of religious, social, political and gender-specific institutions. How to ensure indigenous participation, how to select indigenous representatives and how to reach their informed consent are therefore questions which are subjects of permanent discussion.

The definition of roles between different partners in the development process is another issue for discussion. There are few examples of direct interaction between the Commission and indigenous groups, but until now most projects have been channelled through NGOs. Many indigenous peoples are calling for a redefinition of these roles, but have difficulties in fulfilling donor requirements. This leads to the question of capacity-building..

Capacity-building. Many indigenous peoples are calling for support to capacity-building. However, capacity-building should not just be the adjustment of indigenous societies in order to fulfil donor requirements, which will eventually erode existing social structures. Capacity-building should be understood as enhancing the capacity of indigenous societies to manage change and adopt long-term sustainable strategies. Capacity-building should include training of indigenous professionals, strengthening of institutions and organisations at local, national and international level and exchange of experiences and networking among indigenous peoples.

The Next Step

The policy paper and the envisaged Council resolution propose a general policy context for European development co-operation with indigenous peoples. This is a first step towards an intensified dialogue and partnership, and has in itself been a very positive experience for the European Commission. The next step will have to concentrate on the practical implementation of the policy framework. This will prob-

ably be a long process, in which indigenous peoples themselves should play a fundamental role.

Documents available from the European Commission:

Working Document of the Commission on Indigenous Peoples and Development Co-operation. The Document is available in European languages.

Summary of comments received on the European Commission's Working Document on Indigenous Peoples and Development Co-operation. The Document is only available in English.

Later in 1998 a full report from the workshop held in Brussels with indigenous experts will be available in French, English and Spanish.

Requests for these documents should be addressed to:

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DOCUMENTS PUBLISHED IN 1997/98

DOCUMENTS IN ENGLISH

ENSLAVED PEOPLES IN THE 1990S. INDIGENOUS PEOPLES, DEBT BONDAGE AND HUMAN RIGHTS describes and reveals how indigenous peoples suffer from slavery often in the shape of debt bondage and prostitution. The cases discussed covers indigenous peoples in India, Nepal, Taiwan, the Philippines and Indonesia in Asia. In South America cases from Peru, Bolivia and Paraguay are revealed. The enslaved peoples are often tropical rainforest dwellers or mountain hill tribes. In the opening chapter the actual slavery of the 1990s is brought in a historical perspective, as the editors relates the slavery of indigenous peoples today to the general history of slavery and the history of Anti-Slavery International. Through the numerous casestories light is shed on the mechanisms and consequences of contemporary slavery in the modern world.

IWGIA Document No. 83, 1997. Published in collaboration with Anti-Slavery International, England. Compiled and edited by Anti-Slavery International. Paper, 224 pp., maps.
ISBN 0900-918-40-3, ISSN 0105-4503, US$ 27 + postage

HONOUR BOUND: ONION LAKE AND THE SPIRIT OF TREATY SIX. THE INTERNATIONAL VALIDITY OF TREATIES WITH INDIGENOUS PEOPLES. When the United Nations approved the Study on Treaties, Agreements and other Constructive Arrangements between States and Indigenous Peoples in May 1989, Treaty Six Chiefs invited the Special Rapporteur, Miguel Alfonso Martinez, to attend an Elders and Treaty Six Chiefs' meeting. The meeting was not an attempt to make a historical reconstruction. It was a spiritual and descriptive re-creation of the signing of Treaty Six, which covers an area of over 130,000 square miles. This IWGIA document aims to reflect the event, with the Elders discussing the conditions under which the Treaty was negotiated and signed and its after-

math. With articles by Sharon Venne, Isabelle Shulte-Tenckhoff, and Andrew Gray

IWGIA Document No. 84, 1997. Paper, 127 pp.
ISBN 87-980717-7-7, ISSN 0105 4503. US$ 18.- + postage

INDIGENOUS PEOPLES, ENVIRONMENT AND DEVELOPMENT is a compilation of the proceedings of the conference of the same title held in May 1995 in Zürich, Switzerland, supplemented by a few other relevant articles on the issue. The authors of the articles are well known environmentalists, indigenous and non-indigenous scholars and activists.

The Document is divided into five parts. The first gives a general introduction to the issue. The second deals with the interlinkags between "Land Rights, Self-Determination and Resource Use", discussed with reference to several cases from all over the world. The third part presents different approaches to and aspects of the issue of the relationship between "Biodiversity Conservation and Indigenous Peoples". Here we find both general discussions of the issue as well as case studies. The questions of identity, equity and cooperation are dealt with in the fourth part on "Indigenous Culture and Development". Part five deals on the one hand with indigenous rights and international conventions and declarations, on the other hand it presents initiatives towards improving European states' development assistance policies on indigenous peoples.

IWGIA Document No. 85, 1997. Edited by S. Büchi, Ch. Erni, L. Jurt and Ch. Rüegg. Paper, 359 pp., maps, photographs.
ISBN 87 984110-2-0, ISSN 0105-4503. US$25.- + postage

382

INDIGENOUS HERITAGE AND SELF-DETERMINATION is a work which aims to examine and analyse critically the possible legal mechanisms and processes which could be used by indigenous peoples in the protection and management of their cultural and intellectual property.

This IWGIA document studies the historic and legal context in which the debate on the rights of indigenous peoples has developed and analyses mechanisms such as the Convention on Biological Diversity and the Agreement on TRIPS. Finally, the work analyses the alternative proposed legal models, culminating in a discussion on the possible courses of action which indigenous peoples could take in order to improve the levels of protection and management available to them regarding their cultural and intellectual property.

IWGIA Document No. 86, 1997. By Tony Simpson. Published jointly with El Programa para los Pueblos de los Bosques, UICN-Holand and the Autonomous Government of Greenland. 232 pp. Also available in Spanish (IWGIA Documento No. 22).

ISBN 87-984110-0-4, ISSN 0108-9927. US$ 20.- + postage.

INDIGENOUS PEOPLES AND BIODIVERSITY CONSERVATION IN LATIN AMERICA is the result of a conference held in Pucallpa, Peru, where representatives from indigenous organizations, environmentalists and independent experts met to discuss different methods for managing the protected areas of Latin America. This is a particularly important issue for the region given that 80% of Latin America's protected areas are inhabited by indigenous peoples. The meeting discussed the cases of Peru, Bolivia, Paraguay, Colombia, Brazil, Venezuela, Panama, Honduras and Costa Rica.

IWGIA Document 87, 1998. Published in collaboration with The Forest Peoples Programme and Interethnic Association for the Development of the Peruvian Amazon. Edited by Andrew Gray, Alejandro Parellada and Hellen Newing. 304 pp., maps, photographs. Also available in Spanish (IWGIA Documento No. 23).

ISBN 87-984110-5-5, ISSN 0105-4503. US$ 25.- + postage.

INDIGENOUS WOMEN: THE RIGHT TO A VOICE is a collection of articles and inter-views focusing on the situation of indigenous women today. With a few exceptions, the articles have been written by indigenous female grass roots activists and academics from the Americas, Africa, Asia and Oceania.

The Document gives a vivid picture of the many different realities and problems indigenous women are facing. Obviously, many of these problems as for instance poverty, domestic violence, and marginalisation are not specific for indigenous women. But the perspective taken by the contributors is new and different, and a recurrent theme is the critique of the "dominating system" exemplified in the "New World Order" which is seen as a threat to their cultural and physical survival as well as to the relationship between women and men. This indigenous perspective gives the book a definite tonality and sets it apart from other books on women.

As one of the very few publications on and by indigenous women, *Indigenous Women: The Right to a Voice* is essential for anyone working with or interested in the issue of indigenous peoples or in gender issues.

IWGIA Document No. 88, 1998. Edited by Diana Vinding. Paper: 328 pp., photographs.
ISBN 87 98 4110-6-3, ISSN 0105-4503. US$20.- + postage

EAST TIMOR: OCCUPATION AND RESISTANCE. The document is a collection of articles written by international known experts, activists and politicians. The document provides a broad and in-depth picture of the consequnces of the Indonesian occupation of East Timor concentrating on the latest years development.

East Timor is a small country where a regional superpower, Indonesia, has violently occupied and annexed the territory of the indigenous peoples. Nearly one-third of the eastimorese population have died as a conesquence. Starvation, warfare, illness and widespread violation of basic human rights is the order of the day in East Timor. In

the book this is documented, and light is shed on the genocide the Indonesian regime is committing in East Timor.

The book also puts the conflict in its historical context by relating Indonesia's and East Timor's history and a number of events, that have been focal in the conflict is discussed in detail: i.e. the murders on five overseas journalists in Balibo just before the invasion in 1975, the massacre on the Santa Cruz cemetery outside the capital Dili in 1991, the summit in APEC in 1994, the awarding of the Nobel Peace Prize in 1996.

Several aspects of the conflict is also discussed, such as: health and hospitals, environmental consequences, the condition of the east-timorese women, the role of the catholic church and the armed resistance against the Indonesian occupation.

IWGIA DOCUMENT NO. 89, 1998. Edited by Torben Retboll. Paper, 288 pp., maps, photographs.
ISBN 87-984110-7-1, ISSN 0105-4503, US$19.- + postage

DOCUMENTS IN SPANISH

RI MAYA' MOLOJ PA IXIMULEW - EL MOVIMIENTO MAYA EN GUATEMALA *(Ri Maya' Moloj pa Iximulew - The Mayan Movement in Guatemala)* examines the nature and profile of the Mayan organizational movement from the perspective of ideas, roots and developmental factors. It presents a picture of, and reflects upon, ethnic oppression and the Mayan people's attempts at organization to date and gives an outline of the overall objectives of, and strategies and solutions proposed by, the struggle.

IWGIA Documento No. 20, 1997. By Demetrio Cojti Cuxil. Published in collaboration with Cholsamaj, Guatemala. 158 pp.
ISBN 84-89451-27-3, ISSN 0105-4503, US$ 20.- + postage.

DERECHOS HUMANOS Y PUEBLOS INDÍGENAS. UN MANUAL SOBRE EL SISTEMA DE LAS NACIONES UNIDAS *(Human Rights and Indigenous Peoples. A Handbook on the United Nations System)* gives a detailed description of the existing international mechanisms for prevention and compensation of serious violations of the fundamental rights of indigenous peoples. This IWGIA document aims to dispel the mystery which surrounds the workings of the United Nations, and to reduce the suspicion which some people hold towards it whilst moderating the exaggerated optimism of others, making available to the reader a collection of basic information on the possibilities and limitations of United Nations action in the field of human rights.

IWGIA Documento No. 21, 1997. By Florencia Roulet. Published jointly with El Consejo de Todas las Tierras. Paper, 174 pp.
ISBN 0108-9927, ISBN 87-980717-7-7, US$ 21.- + postage

PATRIMONIO INDÍGENA Y AUTODETERMINACIÓN *(Indigenous Heritage and Self-determination;* on contents refer to abstract of the document published under the same title in English).

IWGIA Documento No. 22. By Tony Simpson. Published jointly with El Programa para los Pueblos de los Bosques, UICN-Holand and the Autonomous Government of Greenland. 232 pp. Also available in English (IWGIA Document No. 86).
ISBN 87-984110-0-4, ISSN 0108-9927, US$ 20 + postage

DERECHOS INDÍGENAS Y CONSERVACIÓN DE LA NATURALEZA (Indigenous rights and conservation of nature; in English published under the title *"Peoples and Biodiversity Conservation in Latin America"*, on contents refer to abstract above).

IWGIA Documento No. 23, 1998. Published in collaboration with The Forest Peoples Programme and Interethnic Association for the Development of the Peruvian Amazon. Edited by Andrew Gray, Alejandro Parellada and Hellen Newing. 320 pp., maps, photographs. Also available in English (IWGIA Document No. 87).
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394

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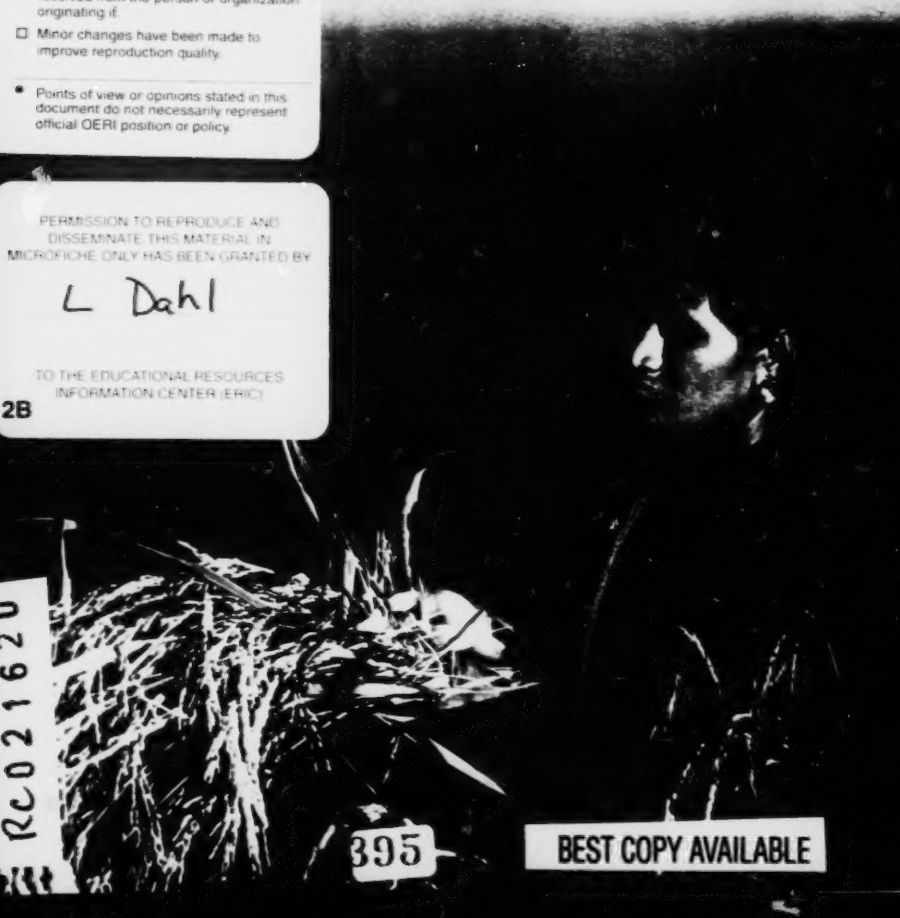

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395

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CONTENIDO

Prefacio del Editor 7

Parte II: El Mundo Indígena
El Ártico 21
América del Norte 49
México y América Central 79
América del Sur 101
El Pacífico y Australia 149
Asia Oriental 197
Asia Suroriental 205
Asia del Sur 271
África 305

Parte II: Temas de Mujeres Indígenas
La Primera Conferencia Africana de Mujeres Indígenas 339
Segunda Conferencia Asiática de Mujeres Indígenas 346
Conferencia de las Mujeres Tribales/Indígenas de la India 354
La Red de las Familias del Pacifico 363

Parte III: Derechos Indígenas
La Declaracion de la ONU entra su tercer año en la Comisión de Derechos Humanos
por Andrew Gray y Jens Dahl 369

La 54a sesión de la Comisión de Derechos Humanos
por Jens Dahl y Lola García-Alix 387

Hacia una política Europea sobre el desarollo y la cooperación relativa lod pueblos indígenas
por Birgitte Feiring 403

Publicaciones IWGIA
Documentos Nuevos 412
Lista de Documentos 418

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400

PREFACIO DEL EDITOR

La edición de este año de "El Mundo Indígena" viste nuevas ropas: una tapa a color, un nuevo layout, y, como cambio principal, una nueva sección titulada "Temas de las Mujeres Indígenas".

La adopción de una sección especial que trata los temas de las mujeres indígenas puede ser interpretada -correctamente- como un resultado de una creciente consciencia de género dentro de IWGIA. En realidad, IWGIA se acaba de embarcar en la redacción de una estrategia específica de género para guiar su trabajo en el futuro. En última instancia, la introducción de una nueva sección sobre los temas de las mujeres refleja la creciente demanda de espacio de las mujeres indígenas dentro del movimiento indígena, para que sus intereses especiales sean tomados en cuenta y para que sus voces sean oídas.

Las mujeres siempre han estado en la vanguardia del movimiento indígena, a nivel local, regional y global. Pero comparadas con sus compañeros masculinos, han sido pocas en número. El movimiento indígena era, y lo sigue siendo, dominado en su mayoría por los hombres. La magnitud de la tarea de afirmar los derechos básicos de los pueblos indígenas ha unido todas las fuerzas. Las mujeres indígenas han comprendido que el reconocimiento de estos derechos es una condición previa para su bienestar como mujeres indígenas. Sólo gracias a la creciente fuerza del movimiento indígena, las mujeres indígenas ganaron el espacio que les permite expresar sus intereses específicos y expresar sus demandas. Esto encuentra su expresión en una creciente cantidad de organizaciones, redes, conferencias y publicaciones de mujeres indígenas. La nueva sección sobre las mujeres indígenas tiene como objetivo principal informar sobre esas iniciativas y acontecimientos, y permitir a los escritores indígenas y no-indígenas reflexionar sobre temas relacionados con las mujeres indígenas.

Sin embargo, el lector puede descubrir rápidamente que la nueva sección sobre mujeres indígenas sólo brinda información selectiva. Hay contribuciones de Asia, África y del Pacífico, pero ninguna de América Latina y del Norte, ni del Ártico. Las circunstancias que condujeron a esta cobertura regional incompleta son las mismas que ha-

cen que "El Mundo Indígena" se quede corto en brindar una visión global general. Aunque los editores y los contribuyentes se han esforzado, fue imposible recopilar todos los artículos necesarios. Brindar una cobertura comprehensiva y exhaustiva de los acontecimientos sucedidos el año pasado en el mundo de los pueblos indígenas probablemente tendrá que quedar siempre como un ideal, y no tanto un objetivo que pueda ser logrado. Es en sumo grado la naturaleza de la autoría, una gran cantidad de personas indígenas y no-indígenas que trabajan en organizaciones indígenas, grupos de apoyo, institutos académicos, etc., que hace que "El Mundo Indígena" sea una publicación única, pero en algunos aspectos también más "vulnerable". Es la gran cantidad de contribuyentes especializados lo que solamente puede garantizar el estándar cualitativo de la publicación. Pero relacionado a esa gran cantidad se encuentra su vulnerabilidad, es decir, la probabilidad de que algunos autores, debido a circunstancias y acontecimientos imprevistos -como los dramáticos cambios políticos de Indonesia de este año, por ejemplo- se vean impedidos de presentar su contribución.

Tal como "El Mundo Indígena" como un todo, hasta el momento, la nueva sección sobre "Temas de las Mujeres Indígenas" es y será el resultado de las contribuciones voluntarias de los autores indígenas y no-indígenas y la ayuda y la coordinación de IWGIA. Y como ahora nos encontramos en el comienzo de este nuevo "proyecto", IWGIA desearía alentar a las mujeres indígenas y no-indígenas a que plantearan ideas, sugerencias y contribuciones. En este momento debería subrayarse que la dirección que tome el "proyecto" y en lo que se desarrolle la idea original, dependerá en gran medida de la respuesta que obtenga IWGIA de las mujeres indígenas.

El aumento del compromiso de IWGIA con el trabajo con temas de las mujeres indígenas se refleja también en la reciente publicación de un libro sobre mujeres indígenas. Editado por un miembro del personal del IWGIA, Diana Vinding, el libro titulado "Mujeres indígenas: el derecho a la voz", ha sido publicado como el Documento IWGIA Nº 88 en junio de este año. Pero no sería correcto concluir que este año marca una nueva era en IWGIA con respecto a los temas de género. IWGIA publicó un documento sobre las mujeres indígenas ya en 1990

402

(Documento Nº 66: "Mujeres indígenas en movimiento"; todavía disponible), y las mujeres indígenas fueron el tema central de "Asuntos Indígenas" 2/95 (lamentablemente agotado).

Pero este año es en realidad, un año especial para IWGIA. En octubre, IWGIA celebrará su 30 aniversario. Partiendo de un pequeño grupo de antropólogos interesados que se comprometieron a realizar un apoyo voluntario y trabajo de "lobby" para los pueblos indígenas, IWGIA ha crecido hasta convertirse en una organización, bastante pequeña, pero plenamente profesional. Aunque el enfoque de este año, de alguna manera especial, sobre los temas de las mujeres sólo coincide por accidente con el aniversario, esperamos que el impulso logrado en este respecto sea sostenido por el trabajo de IWGIA en las décadas venideras.

Contribuciones

IWGIA desearía expresar su caluroso agradecimiento a las siguientes personas y organizaciones por haber contribuido con *El Mundo Indígena*:

El Ártico

Jack Hicks, ha vivido y trabajado en el ártico canadiense desde 1981 y fue Director de Investigaciones de la Comisión de Implementación de Nunavut. Puede ser ubicado en Iqaluit, la capital venidera de Nunavut, en jhicks@nunanet.com (*Canadá*).

Marianne Lykke-Thomsen, ha estado vinculada a IWGIA durante muchos años. Ha trabajado para la Conferencia Circumpolar Inuit y trabaja ahora para el Departamento de Relaciones Exteriores del Gobierno Autónomo de Groenlandia (*Groenlandia*).

Olga Murashko, antropóloga, miembro del Grupo Nacional ruso de IWGIA (*Rusia*).

Claus Oreskov, antropólogo, miembro activo del Grupo Nacional danés de IWGIA durante muchos años. Organizó la conferencia de

IWGIA celebrada en relación con la Cumbre Social de la ONU en Copenhague (*Sápmi*).

Gordon L. Pullar, alutiiq de la Isla de Kodiak, es el Director del Departamento de Desarrollo Rural y de los Nativos de Alaska de la Universidad de Alaska Fairbanks. Actualmente es Presidente de la Fundación Educacional Koniag y ex presidente de la Asociación del Área Nativa de Kodiak y de la organización nacional Custodios de los Tesoros: Concejo Cultural de Indios Americanos, Nativos de Alaska y Nativos Hawaiianos (*Alaska*).

América del Norte

Andreas Knudsen, licenciado en lenguas comerciales en ruso e inglés. Periodista "free-lance". Ha estado interesado en los indígenas norteamericanos desde su niñez. Es miembro activo del Grupo Nacional danés de IWGIA desde 1993. *(América del Norte: blackfeet, chippewa, hopi-dineh, apache, shoshone occidentales, timbisha, lubicon, Leonard Peltier, AFN, elecciones canadienses).*

Jack Hicks, (ver Ártico: *Canada*).

México, América Central y del Sur

Esta sección ha sido compilada y editada por *Alejandro Parellada*, Coordinador de Proyectos de IWGIA.

Hans Aalborg, historiador danés y *Marcela Tovar*, antropóloga mexicana. Ambos viven en Guatemala (*Guatemala*).

Gonzalo Abella es licenciado en historia. Ha trabajado como docente en la Universidad de la República de Montevideo, San Simón de Bolivia y la Católica de Paraguay (*Uruguay*).

Óscar Ayala Amarilla, abogado, miembro de la junta directiva de la ONG Tierraviva y *Anuncio Martí*, encargado de prensa de la misma organización (*Paraguay*).

Ann-Catherine Bajard, Annie Oehlerich y *Bettina Ringsing*, miembros de IBIS-Bolivia y asesoras de CIDOB. (*Bolivia*).

Edgardo Benítez, indígena tawhaka, Coordinador Ejecutivo de la ONG Asang Launa (*Honduras*).

Morita Carrasco, antropóloga, docente de la Universidad de Buenos Aires y autora del Documento de IWGIA "La Tierra que nos Quitaron" (*Argentina*).

Luis Fernandez es músico, interesado a la etnomusicología y viaja desde 1980 a Brasil, Mato Grosso y Rondônia. *(Brasil)*

Pedro García Hierro, jurista, asesor de AIDESEP y presidente de la ONG Racimos de Ungurahui. Autor del Documento de IWGIA "Territorios Indígenas y la Nueva Legislación Agraria en el Perú" (*Perú*).

Marcos Guevara, antropólogo, miembro de la ONG Centro Skoki (*Costa Rica*).

René Küppe es jurista y profesor del Departamento de Antropología Jurídica de Viena, Austria (*Venezuela*).

Atencio López, abogado kuna, presidente de la ONG Napguana (*Panamá*).

Roberto Morales, antropólogo, ha trabajando durante varios años con comunidades mapuches (*Chile*).

Max Ooft es dirigente indígena de Surinam y actualmente se desempeña en el Secretariado Internacional de la Alianza Internacional de los Pueblos Indígenas-Tribales de los Bosques Tropicales (*Surinam*).

Christian Scherrer antropólogo suizo, ha trabajando durante varios años en Nicaragua (*Nicaragua*).

Natalia Wray es antropóloga y asesora de varias organizaciones indígenas del Ecuador. (*Ecuador*).

El Pacífico y Australia

Peter Jull, canadiense, ha sido asesor de las organizaciones aborígenes, de isleños del Estrecho Torres y de los pueblos del Ártico; es miembro de la Unidad de Investigación sobre Australia del Norte de la Universidad Nacional de Australia (*Australia*).

Martin Miriori, secretario y líder de la delegación del Gobierno Interino de Bougainville/Ejército Revolucionario de Bougainville, participó en las Conversaciones de Burnham, en Nueva Zelanda, que condujeron al acuerdo de cese el fuego -el llamado Acuerdo Lincoln- del 30 de abril de 1998 (*Bougainville*).

Asia Oriental

Harald Bøkman, sinólogo, Miembro Investigador del Instituto Nacional de Investigación sobre la Paz, Oslo, Noruega. Sus campos principales de investigación son el surgimiento histórico de China y sus vecinos en una perspectiva histórica (*China*).

Asia Suroriental

Anthropology Watch (AnthroWatch) es un grupo de investigación y defensa de los pueblos indígenas de las Filipinas, establecido en 1994 (*Filipinas*).

Minnie Degawan, trabaja actualmente con DINTEG, una organización indígena por los derechos legales, con sede en Baguio, en las Cordilleras del Norte de Luzon, Filipinas. Es la ex Secretaria General de la Alianza de los Pueblos de la Cordillera (CPA) (*Filipinas: Cordillera*).

Estamos agradecidos por el capitulo sobre Indonesia a *DOWN TO EARTH*, Campaña Internacional por la Justicia Ecológica en *Indonesia*, con sede en Londres, por permitirnos reimprimir partes de sus artículos.

Christophe Horwath, graduado en derecho, tiene un posgrado en Ciencias Políticas y Relaciones Internacionales. Trabajó durante más de

dos años en Camboya y está investigando actualmente sobre el vínculo entre los temas ambientales y de derechos humanos, con especial énfasis en los pueblos indígenas de Camboya (*Camboya*).

Jannie Lasimbang, indígena kadazan-duzun de Sabah. Trabajó como instructora en PACOS (Partners of Community Organisation), un fondo establecido para las comunidades indígenas de Sabah. Desde 1984, ha participado activamente en la construcción de la red indígena, tanto local como internacional y es actualmente la Presidenta del Pacto de los Pueblos Indígenas de Asia (AIPP) (*Sabah, Malasia*).

Neil Makinuddin, Director Ejecutivo de PLASMA, una ONG que trabaja con temas ambientales e indígenas y tiene su sede en Samarinda, Kalimantan Oriental (*pueblo bentian, Kalimantan Oriental*).

Colin Nicolas, es el coordinador del Centro para Asuntos Orang Asli (COAC), Kuala Lumpur, Malasia (*orang asli, Malasia*).

Torben Retboell, enseña Historia y Latín en la Katedralskole de Aarhus, Dinamarca. Ha escrito y editado varios libros sobre los medios de difusión y asuntos internacionales, incluyendo *Timor Oriental, Indonesia y las democracias occidentales* (1980), *Timor Oriental: la lucha continúa* (1984) y *Timor Oriental: ocupación y resistencia* (de próxima publicación, 1998) (*Timor Oriental*).

Asia del Sur

Ratnaker Bhengra, abogado y miembro de la Organización Jharkandis por los Derechos Humanos que trabaja por la autonomía dentro del estado de la India. Es asesor legal de la organización de derechos humanos Joha-Ranchi y miembro activo del movimiento contra el reasentamiento forzado (*Jharkand*).

C. R. Bijoy, activista de los derechos humanos. Durante los últimos dieciséis años ha participado y a estado vinculado con las cuestiones indígenas y las organizaciones de la India y ha escrito sobre estos temas y otros temas vinculados (*India del Sur*).

Red de los Pueblos Jumma (JUPNET), es una organización establecida y administrada por indígenas jumma que residen en diversos países de Europa y otras partes. JUPNET trata de promover los derechos de los indígenas jumma a través del diálogo, la negociación y otros métodos pacíficos (*Chittagong Hill Tracts*).

Avdhash Kaushal, ex miembro de la facultad de la Academia Nacional de Administración de Lal Bahadur Shastri (LBSNAA), recibió el premio Padma Shree del Presidente de la India por su trabajo por la protección ambiental y trabaja con los pueblos indígenas de todas las áreas montañosas del norte de la India. Actualmente es el Presidente de "Rural Litigation & Entitlement Kendra" (RLEK), Dehra Dun, que trabaja por el fortalecimiento de los pueblos indígenas van gujjar y jaunsari (*India, Uttar Pradesh*).

Luingam Luithui, indígena naga tangkhul de Manipur, es el Secretario del Pacto de los Pueblos Indígenas de Asia (AIPP) (*Nagaland*).

Prof. C. Nunthara, indígena mizo de Mizoram, en el noreste de la India, tiene un M.A. y un Ph.F del Departamento de Sociología, Escuela de Economía de Delhi, Universidad de Delhi. Actualmente es Profesor de Sociología en la Universidad de las Montañas del Noreste, en Shillong, Meghlaya, India. Investiga en el campo de las sociología política, especialmente sobre el cambio social y la etnicidad en el noreste de la India (*India: Noreste*).

África

Dorothy Jackson tiene un Ph.D. en Ecología de los Bosques Tropicales (Universidad de Oxford) y realizó trabajo de campo sobre bosques tropicales y entomologia en el norte de Tailandia, Colombia y Camerún. Actualmente trabaja como Encargada de Proyectos del Programa para los Pueblos del Bosque (FPP) del Movimiento Mundial para los Bosques Tropicales, cuyo punto central es el monitoreo de campañas internacionales y la elaboración del propio aporte del FPP a esas campañas, particularmente en África; brinda apoyo administrativo y asesoramiento político a la Alianza Internacional de los Pueblos

Indígenas y Tribales de los Bosques Tropicales en su secretariado con sede en Londres, y recolecta fondos y apoyo para proyectos locales (*África Ecuatorial, Ruanda*).

Charles Lane tiene una formación en derecho, agroculturalismo y ciencias sociales en Australia y el Reino Unido. Ha trabajado en África durante más de diez años y ha realizado investigaciones exhaustivas con los pastores barabaig de Tanzania, para su doctorado, y luego como Miembro Investigador del Instituto Internacional para el Medio Ambiente y el Desarrollo. Actualmente actúa como consultor independiente y asesora a Supervivencia Internacional en un programa de tres años de apoyo a los derechos territoriales pastores de África oriental. También es Director de Pilotlight, una nueva organización británica de caridad que se ocupa de temas relacionados con el desposeimiento de los pueblos de sus medios de subsistencia. (*Tanzania, Kenia*).

Ann Maymann tiene una Maestría del Centro de Estudios sobre el Desarrollo Francés e Internacional de la Universidad de Roskilde y una Maestría de la Universidad de Copenhague, en Derecho Internacional sobre Conflictos Armados. Hizo un internado de cinco meses en ACNUR, en Senegal y Burkina Faso, es una JPO desde noviembre de 1996 para la ACNUR en Burkina Faso y desde abril para la ACNUR de Angola (*Mali*).

Kapupu Diwa Mutinawa trabaja con el "Programme d'Integration et de Développement du Peuple Pygmée au Kivu" (PIDP-Kivu) en la provincia de Kivu del Sur, en el este de la República Democrática del Congo (*Parque Nacional Kahuzi-Biega*).

Kxai Moses =Oma, es un indígena oma nacido en Nyae Nyae y desde hace ocho años es Administrador de la Cooperativa de Agricultores Nyae Nyae (NNFC); *Wendy Viall* es Coordinadora de Apoyo de la Fundación de Desarrollo Nyae Nyae de Namibia (NNDFN), y ha estado empleada por NNDFN/NNFC durante los últimos ochos años; *Shebby Mate* es Administradora de Programas y Asesora Agrícola de NNDFN, y ha estado empleada por NNDFN/NNFC durante los últimos cinco años (*Namibia, ju/'hoansi de Nyae Nyae*).

409

Sidsel Saugestad es Profesora Adjunta del Instituto de Antropología Social de la Universidad de Tromsoe, en Noruega. Sus intereses investigativos incluyen las relaciones de los grupos étnicos, los pueblos indígenas, los derechos humanos y el cambio cultural. Ha realizado trabajo de campo en el sur de África, y trabajó durante dos años como experta de NORAD en Botsuana (*Botsuana*).

Terese Sveijer estudia antropología social y derechos humanos en sociología del derecho en la Universidad de Lund, Suecia. Realizó un pequeños estudio de campo con el pueblo himba en 1996 y es miembro del grupo local de IWGIA, Lund (*Namibia: himba*).

Louis P. Vorster, antropólogo, profesor de la Universidad de Sudáfrica, es profesor de derecho consuetudinario africano. Presidente del Fondo !Xu y Khwe (*Sudáfrica*).

Parte II: Temas de las Mujeres Indígenas

Angeline van Achterberg recibió su Maestría en Antropología Social en la Universidad de Amsterdam. Sus principales áreas de estudio e interés son los temas de género y la región noroccidental de África, especialmente el sur del Sahara. En 1984, estuvo en Tamanrasset, Argelia, para realizar su trabajo de campo entre los tuareg kel ahaggar. En 1992, retornó a Holanda y se incorporó al Centro Holandés para los Pueblos Indígenas, en el cual es la Coordinadora Regional para África. *(Conferencia de las Mujeres Indígenas de África)*

RLEK (ver Avdash Kaushal, Asia del Sur; *Conferencia de las Mujeres de India)*

Diana Vinding es antropóloga y trabaja actualmente en IWGIA. Asistió a la *Conferencia de las Mujeres Indígenas de Asia*, en Kanchanaburi, Tailandia.

Parte III: Derechos Indígenas

Jens Dahl, antropólogo, Director del Secretariado de IWGIA y miembro del Consejo Internacional de IWGIA. Enseña en la Universidad

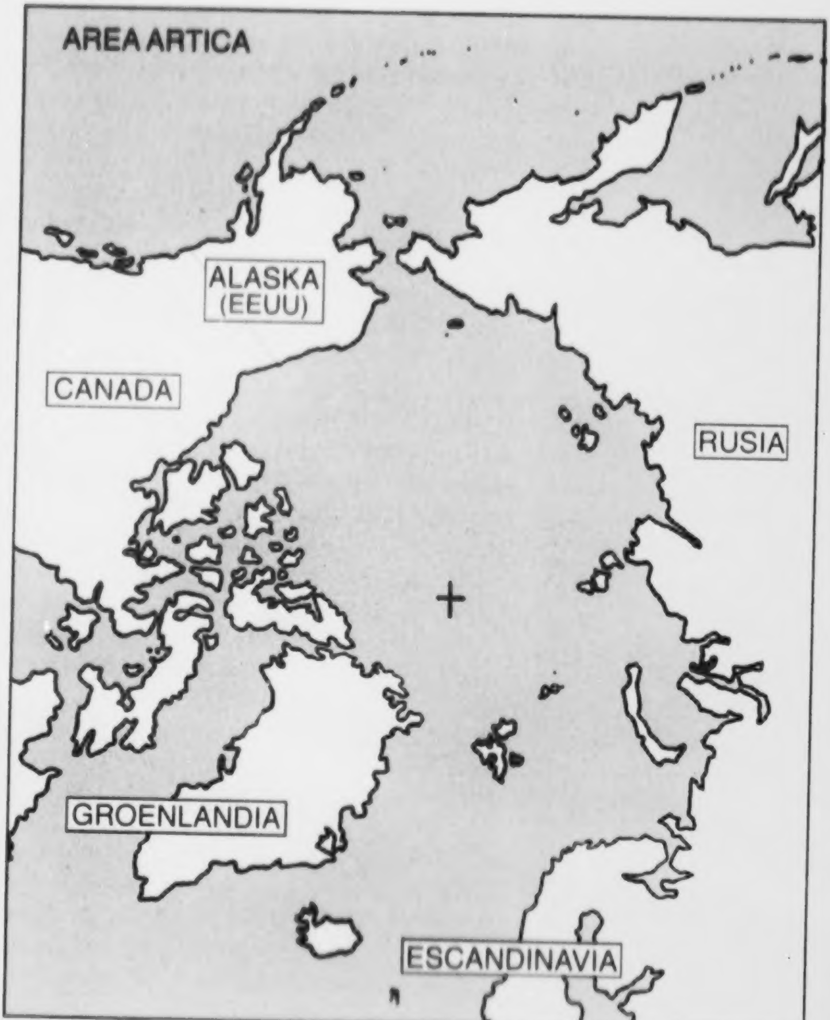
de Copenhague, Departamento de Esquimología (*Alaska, Naciones Unidas*).

Lola García-Alix es socióloga y trabaja como Coordinadora del Programa de Derechos Humanos en el Secretariado Internacional de IWGIA. También es administradora del Fondo de los Derechos Humanos para los Pueblos Indígenas.

Andrew Gray, antropólogo, es ex director de IWGIA y actualmente es miembro de su Consejo Directivo.

PARTE I

EL MUNDO INDÍGENA



Países/regiones tratadas en ésta publicación:
Alaska, Canada (Nunavut), Groenlandia, Rusia, Sápmi

413

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EL ÁRTICO

ALASKA

El Caso Venetie

En 1997, el acontecimiento más importante que impactó a los nativos de Alaska fue la audiencia de la Suprema Corte de los EE.UU. sobre el Caso Venetie, el 11 de diciembre. Lo que estaba en juego en el caso era si la tierra propiedad de las aldeas indígenas *neets'aii gwich'in atabascas* de Venetie y Arctic Village eran "País Indio" o no según la ley de los EE.UU. "País Indio" es un término usado en el sistema legal de los EE.UU. para designar el área geográfica sobre la cual tiene jurisdicción una tribu india. El Tribunal de Apelaciones del Noveno Circuito sentenció a fines de 1996 que las tierras tribales de Venetie eran ciertamente País Indio y que el gobierno tribal tenía jurisdicción sobre sus 1,8 millones de acres de tierra. Las vastas implicaciones de esta sentencia eran que otras aldeas nativas de Alaska también tenían jurisdicción sobre sus territorios. Esa sentencia impulsó a la Legislatura del Estado de Alaska a apropiarse de un millón de dólares para ser usados en expensas legales para intentar que la Suprema Corte reviera el caso. Esta acción provocó las protestas de la comunidad nativa de Alaska a causa de los recortes del presupuesto legislativo para programas esenciales para la Alaska rural y los nativos de Alaska que se estaban realizando al mismo tiempo que la legislatura se apropiaba de dinero para luchar el caso del País Indio.

Veinte otros estados, así como el Territorio de Guam y la Mancomunidad de las Islas Marianas, apoyaron al Estado de Alaska presentando escritos *amicus curiae* ("amigos de la corte") a la Suprema Corte. Muchas tribus nativas y organizaciones de todos los EE.UU., incluyendo a la Nación Navajo, la tribu mayor de los EE.UU., presentaron escritos en apoyo a Venetie. Dos corporaciones nativas de Alaska formadas bajo ANCSA presentaron escritos diciendo que las tierras de Venetie deberían ser consideradas "País Indio" pero que el estatus no debería aplicarse a la tierra de propiedad de la corporación ANCSA. Esas corporaciones eran Koniag, Inc., la corporación regio-

nal del área de la Isla Kodiak y Shee Atika, Inc., la corporación aldeana de Sitka.

Reunión del Concejo Aldeano de Venetie - alrededor de 1939. De derecha a izquierda: Ginnis Golon, Jimmy Robert, Jonas Robert, Elijah John, Andrew Robert, Peter Robert, John Fredson. (Cortesia de la Biblioteca Estatal de Alaska).

Existen 226 aldeas tribales reconocidas federalmente en Alaska que habían creído que tenían las mismas autoridades jurisdiccionales que las tribus indias en los 48 estados contiguos. El Estado de Alaska ha mantenido que rige la Ley de Acuerdo sobre Reivindicaciones Nativas de Alaska de 1971 (ANCSA). Bajo ANCSA, se establecieron doce corporaciones comerciales lucrativas controladas por nativos de Alaska y más de 200 corporaciones comerciales aldeanas para recibir un título legal para sus territorios aborígenes. Los gwitch'in tenían sepa-

rada una reserva de 1,8 millones de acres por el gobierno de los EE.UU. en 1943. La reserva fue abolida por ANCSA pero los gwitch'in podían optar quedar fuera de ANCSA por una votación de su pueblo y transferir el título de la antigua reserva a los gobiernos tribales combinados de Venetie y Arctic Village. Un intento del gobierno tribal de imponer un impuesto comercial a un contratista contratado por el Estado de Alaska para construir una nueva escuela en la aldea de Venetie comenzó el caso en 1986. El Estado de Alaska mantuvo que el gobierno tribal no tenía autoridad para imponer impuestos en su tierra alegando que la autoridad había sido renunciada en ANCSA.

La Suprema Corte de los EE.UU. marcó una primera audiencia para los nativos de Alaska. Heather Kendall-Miller, una abogada indígena atabascana educada en Harvard, defendió el caso por Venetie ante la Suprema Corte. Así se convirtió en la primera nativa de Alaska en defender un caso en la Suprema Corte de los Estados Unidos. Kendall-Miller, quien está empleada por Boulder, la oficina de Alaska del Fondo por los Derechos de los Nativos Americanos, con sede central en Colorado, también presentó el caso al Tribunal de Apelaciones del Noveno Circuito. Apenas seis años de egresada de la facultad de derecho, se enfrentó al poderoso abogado del Estado de Alaska, que ejerce en Washington D.C., quien había estado ante la Suprema Corte 25 veces antes. Ella se convirtió en una heroína y un modelo para miles de nativos de Alaska, muchos de los cuales fueron a Washington D.C. para observar la audiencia de la Suprema Corte. Entre los otros simpatizantes se encontraban miembros tribales de Venetie y Arctic Village. Ernest Erick, un ex jefe de la aldea de Venetie, tocó un tambor tradicional en las escalinatas del edificio de la Suprema Corte antes de la audiencia. Tanto los expertos legales como los simpatizantes estuvieron de acuerdo que Kendall-Miller presentó el caso muy bien en nombre de Venetie.

El 25 de febrero de 1998, la Suprema Corte de los EE.UU. emitió su sentencia en el caso Venetie. En una sentencia unánime, la corte revocó la decisión del Noveno Circuito y sentenció que el País Indio no existe en Alaska. En una sentencia escrita por el Juez Clarence Thomas, un juez que no hizo una sola pregunta durante la audiencia de la corte en diciembre, la corte dice que las tierras de Venetie no eran

"País Indio" y que cualquier tipo de estatus había sido revocado por ANCSA. Poco después de la decisión de la Suprema Corte, el gobernador de Alaska anunció el nombramiento de la Comisión Estatal sobre el Gobierno y la Autoridad de la Alaska Rural, constituida por una combinación de nativos de Alaska y no-nativos, y encargada de hacer recomendaciones para mejorar la autosuficiencia y la autogestión en las aldeas nativas a la luz de la decisión de la Suprema Corte.

Subsistencia

El tema de los derechos de subsistencia de los nativos de Alaska, de décadas de antigüedad, se acercó a un nuevo hito en 1997. Está programado un apoderamiento federal del manejo de la pesca en Alaska para diciembre de 1998 si el Estado no cumple con la Ley de Tierras de Interés Nacional de Alaska de 1980 (ANILCA). Según ANILCA, los residentes rurales de Alaska, que incluye a la mayoría de los nativos de Alaska, tienen una preferencia en cuanto a propósitos de subsistencia para la pesca y la caza.

Los derechos aborígenes de caza y pesca fueron extinguidos en Alaska por la Ley de Acuerdo sobre Reivindicaciones Nativas de Alaska de 1971. Fueron parcialmente restaurados por la Ley de Protección de Mamíferos Marinos de 1972, la cual otorga a los nativos de Alaska el derecho de cazar mamíferos marinos. ANILCA otorgó a los residentes rurales una preferencia para la pesca y la caza con propósitos de subsistencia. Se aprobó una ley estatal de Alaska que acordaba con ANILCA, pero esa ley fue rechazada por la Suprema Corte de Alaska en 1990 por ser contraria a la Constitución del Estado de Alaska, la cual garantiza un igual acceso a la pesca y a la caza a todos los ciudadanos de Alaska, independientemente de donde vivan. Como el estado estaba entonces en oposición a la ley federal, el gobierno federal se hizo cargo del manejo de la caza en tierras federales en 1991. El manejo de la pesca ha estado pendiente por el otorgamiento de varias extensiones para posponer que el gobierno federal se haga cargo de la pesca. La extensión final expira el 1 de diciembre de 1998. En 1997, el Gobernador Tony Knowles nombró un Equipo de Subsistencia para que recomendara una solución. El equipo recomendó que la Constitución de Alaska fuera enmendada para poder conceder preferencia a la subsist-

encia rural y cumplir así con ANILCA. Tal enmienda tendría que ser sometida a la votación de todos los ciudadanos de Alaska. Esa elección tendría que ser aprobada por la Legislatura del Estado de Alaska para que tuviera lugar. La Legislatura no ha estado dispuesta a llamar a tal votación, haciendo que la posibilidad de un completo apoderamiento del manejo de la caza y de la pesca sea cada vez más probable.

Apertura del Centro Médico Nativo de Alaska

El 2 de junio de 1997, abrió el nuevo Centro Médico Nativo de Alaska, de un costo de 168 millones de dólares, en Anchorage. Se espera que otorgue servicios a todos los 100.000 nativos que viven en toda Alaska. El nuevo servicio es el mayor y más avanzado de los Estados Unidos controlado por el Servicio de Salud India de los EE.UU. El hospital reemplaza el antiguo hospital construido en 1953 como un sanatorio para tuberculosos. El viejo hospital fue dañado durante el Gran Terremoto de Alaska en 1964 y se han realizado esfuerzos desde ese momento para lograr la construcción de un nuevo hospital. El nuevo hospital ocupa más de 370.000 pies cuadrados, más del doble del tamaño del viejo. En el nuevo hospital se encuentra por todas partes la más alta tecnología médica.

Un consorcio de tribus nativas de Alaska está actualmente negociando los detalles con el gobierno de los EE.UU. para hacerse cargo de la administración del nuevo hospital, tal como lo autoriza la Ley de Autodeterminación India de 1975. El hospital puede pasar a control nativo para 1999.

CANADÁ

Los Territorios del Noroeste y Nunavut

Los Territorios del Noroeste experimentaron dificultades económicas en 1997, ya que los recortes presupuestarios del gobierno federal a los gobiernos territoriales fueron pasados a los municipios y a los individuos y familias. El presupuesto de los Territorios del Noroeste fue cortado más profundamente, en términos porcentuales, que el de cualquier otra jurisdicción provincial/territorial de Canadá, a pesar de que la región tiene un muy alto nivel de problemas sociales.

El Gobierno de los Territorios del Noroeste recortó su presupuesto en 100 millones de dólares canadienses, o sea, casi el 10%. Los pastores de la iglesia anglicana increparon entonces al Gobierno de los Territorios del Noroeste por su obsesión con la reducción del déficit, acusando a los recortes en la asistencia social, la salud y la educación, por el sentimiento general de inseguridad y desesperación en el norte. El gobierno admitió que, entre otros problemas, el 25% de los residentes de los Territorios del Noroeste están sin una vivienda adecuada y hay necesidad de por lo menos 4.000 nuevas unidades habitacionales.

El ritmo de planificación para la creación del Gobierno y Territorio de Nunavut el 1 de abril de 1999, aumentó a medida que pasaron los años.

Los 3 partidos del Acuerdo Político de Nunavut -el Gobierno de Canadá, el Gobierno de los Territorios del Noroeste y la corporación *inuit* de reivindicación de tierras Nunavut Tunnngavik Incorporated (NTI)- llegaron a un acuerdo sobre el modelo del Gobierno de Nunavut recomendado por la Comisión de Implementación de Nunavut, como un gobierno efectivo, descentralizado, con al menos un 50% de empleados inuit en todos los niveles durante el período inicial y niveles representativos (85%) en el futuro.

La tarea de implementación del plan de NIC se convirtió en una pelota de fútbol política durante 1996, y la tensión entre los 3 partidos persistió hasta abril. Con casi un año de atraso, Jack Anawak -el miembro del parlamento federal por el partido gobernante, el Partido Liberal- fue nombrado Comisionado Interino y se le otorgó un presupuesto de 10 millones de dólares canadienses para establecer el Gobierno de Nunavut. Anawak renunció a su escaño en la Cámara de los Comunes antes de que se llamara a elecciones generales (en las cuales fue reemplazado por su compañera del Partido Liberal, Nancy Karetak-Lindell). Los críticos destacaron que si bien Anawak era un político inuit de alto perfil, no tenía capacitación o experiencia administrativa.

Comenzaron las discusiones entre el gobierno federal, la Oficina del Comisionado Interino el Gobierno de los Territorios del Noroeste y NTI con respecto al monto del primer presupuesto del Gobierno de Nunavut.

El modelo del sistema político de Nunavut fue decidido en el transcurso del año. En mayo los residentes de Nunavut participaron en la primera votación pública del mundo sobre el principio de tener igual cantidad de hombres y mujeres en la legislatura. Los Territorios del Noroeste tienen el porcentaje más bajo de mujeres legisladoras de cualquier jurisdicción de Canadá, y el NIC había propuesto un sistema de distritos electorales con dos miembros en el cual cada adulto votaría por un hombre de una lista de candidatos masculinos y una mujer de una lista de candidatas femeninas. La propuesta fue derrotada, por razones analizadas en un artículo del *Mundo Indígena*. Más tarde los 3 partidos del Acuerdo Político de Nunavut decidieron que la legislatura de Nunavut consistirá de 19 distritos electorales con un miembro único.

La corporación inuit de reivindicación de tierras NTI realizó dos importantes acciones para salvaguardar los derechos inuit durante 1997.

En septiembre NTI presentó una demanda ante la Corte Federal de Canadá para combatir las cuotas de rodaballo adjudicadas a los pesqueros de Davis Strait por el Departamento Federal de Pesca y Océanos. NTI dijo que el ministro de pesca ignoraba las previsiones del Acuerdo de Reivindicación de Tierras de Nunavut al adjudicar esas cuotas, y la corte estuvo de acuerdo - y revocó la decisión del Ministro federal con respecto a las cuotas.

La frustración de NTI con los miembros de la Asamblea Legislativa de los Territorios del Noroeste, especialmente con respecto a los temas relativos a la creación de Nunavut, llegó a un pico y NTI alegó "falla de los miembros ordinarios" cuando estableció un "gabinete simbólico" para monitorear las acciones del Gobierno de los Territorios del Noroeste.

La más importante historia en el oeste de los Territorios del Noroeste en 1997 fue el continuo intento de encontrar una solución al estancamiento constitucional de la región. Una vez que Nunavut sea creado, la parte restante de los Territorios del Noroeste tendrá una mayoría de residentes no-aborígenes, con una población aborigen dividida entre diferentes Primeras Naciones, *metis* y *inuvialuit* (los inuit de la región del Delta del Mackenzie). Hasta ahora ha sido imposible encontrar

una fórmula constitucional que satisfaga a los diferentes grupos aborígenes y, no obstante, no moleste a los residentes no-aborígenes - algunos de los cuales son abiertamente hostiles a las aspiraciones aborígenes de autonomía. Todavía no está claro si la parte occidental de los Territorios del Noroeste tendrá una nueva constitución -o incluso un nuevo nombre- cuando Nunavut sea creado el 1 de abril de 1999.

GROENLANDIA

El 19 de septiembre, en la apertura de la sesión de otoño del Parlamento de Groenlandia, el Primer Ministro de Groenlandia, el Sr. Lars Emil Johansen, renunció después de 25 años en política. El Sr. Johansen, quien es conocido por sus importantes iniciativas en la reestructuración de las importantes compañías corporativas de propiedad del Gobierno Autónomo (analizado en ediciones previas de *El Mundo Indígena*), dejó la política para asumir la responsabilidad de Vice Director Ejecutivo de la importante compañía groenlandesa de procesamiento de pescado, Royal Greenland Ltd.

A continuación de la renuncia, el Sr. Johansen fue inmediatamente reemplazado por el Presidente del Parlamento de Groenlandia, el Sr. Jonathan Motzfeldt, quien fue electo Primer Ministro por un parlamento unánime. El Sr. Motzfeldt fue Primer Ministro de Groenlandia durante los primeros 12 años, de los 18 años de Autonomía. Un ex ministro del primer gobierno Autónomo, el Sr. Anders Andreassen, reemplazó al Sr. Motzfeldt como Presidente del Parlamento de Groenlandia.

El cambio gubernamental no provocó ningunos cambios en la constitución del gobierno que está basado en una coalición entre el Partido Siumut, socialdemócrata, y el más liberal Partido Atassut. No obstante, el acuerdo político entre Siumut y Atassut fue renegociado y el cambio resultó también en el reemplazo interno de un ministro de Siumut así como también unos cuantos cambios con respecto a las carteras.

Recursos minerales

El Primer Ministro Johansen abandonó la arena política recién después de negociar exitósamente un acuerdo con el gobierno danés, el cual otorga a Groenlandia la responsabilidad de la administración de los recursos minerales de Groenlandia. Este acuerdo, un hito en la carrera política del Sr. Johansen y un objetivo de larga data del Gobierno Autónomo de Groenlandia, prevé la transferencia de la administración de los recursos minerales de Dinamarca a Groenlandia.

La cuestión del derecho a los recursos petroleros y minerales de Groenlandia ha sido un tema de debate desde la misma preparación de la Autonomía en Groenlandia. La Ley de Autonomía establece (cf. Sección 8 (1)) que la población residente de Groenlandia tiene los derechos fundamentales a los recursos naturales de Groenlandia. No obstante, los políticos daneses se han sentido obligados -con el tiempo- a subrayar que los derechos al subsuelo pertenecen al Reino de Dinamarca o la Unidad del Reino.

En Groenlandia, se considera que el nuevo acuerdo brinda una comprensión mucha más clara de que los minerales y los derechos al subsuelo pertenecen a Groenlandia, aunque se mantiene la estructura de una Comisión Conjunta sobre Recursos Minerales, en la cual Groenlandia y Dinamarca tienen un así llamado doble derecho de veto.

La implementación del acuerdo, que ahora ha sido preparado por el Primer Ministro Motzfeldt, está solamente aguardando que el Parlamento danés efectúe una enmienda de la Ley Danesa sobre Recursos Minerales en la primavera de 1998.

Conservación de los recursos vivos

El uso sustentable de los recursos vivos en y en torno a Groenlandia y la conservación y manejo del medio ambiente natural y la biodiversidad son temas de la más alta prioridad.

Para brindar la base científica necesaria para asegurar una alta calidad de monitoreo y evaluación de la base de recursos, el Gobierno Autónomo de Groenlandia estableció el Instituto para Recursos Naturales de Groenlandia, Pinngortitaleriffik, en 1995.

Pinngortitaleriffik, que está basado en el ex Instituto de Pesca e Investigación del Medio Ambiente de Groenlandia, es responsable de

brindar la pericia basada en la investigación y asesoramiento al Departamento de Pesca, Caza, Industria y Agricultura, al público y aquellas organizaciones y foros internacionales con los cuales Groenlandia está asociada.

En febrero de 1998, el Instituto se mudó a instalaciones completamente nuevas donadas por una fundación privada de caridad danesa que simpatiza con el objetivo general y la responsabilidad de Pinngortitaleriffik. El marco físico del Instituto tiene ahora la forma de un hermoso edificio diseñado específicamente para cumplir sus propósitos. Alberga la administración, los laboratorios y una variedad de otras facilidades investigativas y existen planes para construir alojamiento para los investigadores que están en Groenlandia en forma temporaria, cerca del Instituto.

El Instituto de Investigación tiene aproximadamente un personal de 40 funcionarios, la mitad de los cuales tienen una formación académica. La estructura organizacional consiste en que un departamento está dedicado a la investigación relativa a los peces y a los camarones y otro se ocupa de los mamíferos marinos y las aves. El Instituto es dirigido por el Departamento Administrativo que dispone de un secretariado de relaciones públicas afiliado. La financiación para la administración y la investigación proviene del presupuesto fiscal del Gobierno Autónomo y de proyectos financieros externos. Con el propósito de realizar investigación sobre el medio ambiente marino, Pinngortitaleriffik dispone adicionalmente de un barco rastreador y de un navío de investigación, ambos diseñados para cumplir con los objetivos particulares de investigación en cualquier momento.

Uso sustentable de recursos

Groenlandia tiene una larga tradición de aplicación de diferentes regímenes de manejo basados en la investigación científica y en la pericia de los cazadores para el manejo de los recursos más importantes como los peces y los mamíferos marinos. La investigación es típicamente realizada en estrecha colaboración con los cazadores y pescadores, quienes tienen gran conocimiento sobre los recursos y son sumamente dependientes de los mismos.

Una gran parte de la población de Groenlandia basa su subsistencia en el usufructo de los recursos vivos o renovables. Sin embargo, existen límites, en el sentido biológico, para la capacidad de las especies individuales. El principal objetivo del trabajo realizado en Pinngortitaleriffik es, por lo tanto, a través de la investigación científica para establecer un nivel de usufructo realista y sustentable para las especies socioeconómicamente o culturalmente importantes. Esto es particularmente importante cuando los intereses nacionales o internacionales están en juego - y cuando las preocupaciones inmediatas y a largo plazo en relación con el manejo sustentable de un recurso particular se convierte en un tema de importancia.

Obligaciones internacionales

Muchos temas sobre los recursos y el medio ambiente tienen que ser tratados a un nivel regional o global y la mayoría de las especies que son usufructuadas en Groenlandia son compartidas con los países vecinos. Para cumplir con las normas internacionales y en el interés de Groenlandia con respecto al compartir los recursos, Pinngortitaleriffik, por lo tanto, tiene que unirse a la cooperación investigativa internacional y participar en los grupos de trabajo científicos internacionales con el objetivo de un manejo conjunto.

Como Groenlandia es sumamente dependiente de un sano manejo de sus recursos vivos, se pone muchísimo esfuerzo y financiación en la investigación científica y en el desarrollo de proyectos de manejo.

Concejo Ártico

Groenlandia toma parte activa del recientemente establecido Concejo Ártico que tiene como uno de sus objetivos principales la cooperación entre los estados árticos sobre proyectos que ampliarán el ámbito del desarrollo sustentable.

La importancia y valor del Concejo Ártico desde una perspectiva groenlandesa son por cierto medidos por el hecho de que a los pueblos indígenas, en la Declaración y en la práctica, se les ha otorgado un estatus especial como Participantes Permanentes. Un estatus que va mucho más allá del estatus de observador en términos de una activa participación en el trabajo y en las tomas de decisiones del Concejo.

Uno de los importante problemas que el Concejo Ártico ha tenido que tratar antes de que en realidad pudiera comenzar su trabajo sobre temas sustantivos es precisamente cuáles organizaciones no-gubernamentales pueden ser observadoras del Concejo Ártico y qué papel pueden jugar. Después de un prolongado proceso de negociación, los Estados Árticos sólo recientemente adoptaron una serie de reglas provisorias de procedimiento para el Concejo a ser aprobadas por los ministros de relaciones exteriores de los estados Árticos en la próxima Conferencia Ministerial del Concejo Ártico a ser celebrada en septiembre en Canadá.

Mientras que el proceso del Concejo, la Estrategia Ártica de Protección Ambiental, que ha sido incorporado al Concejo Ártico, ha tenido sólo discusiones menores sobre el tema de los observadores, ha insumido una considerable cantidad de energía y espacio en el Concejo. Al mismo tiempo, la cantidad de organizaciones interesadas en convertirse en observadores del trabajo del Concejo está creciendo constantemente.

El problema es que por un lado algunos países, incluyendo a Groenlandia, temen -por razones válidas- que organizaciones que se dedican a actividades o despliegan opiniones que pueden ser perniciosas para los pueblos árticos, sus culturas y medios de subsistencia particulares, pueden súbitamente aparecer como observadores en el Concejo Ártico. La experiencia de Groenlandia es simplemente que no se puede confiar en algunas organizaciones.

Por otro lado, algunos estados son muy dependientes de una buena relación con las organizaciones no-gubernamentales y las instituciones de financiación pública y, por lo tanto, están dispuestos a apoyarlas.

El tema de los observadores ha bloqueado básicamente la capacidad del Concejo de realizar cualquier trabajo de importancia antes que la Reglas de Procedimiento estuvieran establecidas. Por lo tanto, el actual trabajo del Concejo Ártico bajo la presidencia de Canadá, apenas habrá comenzado antes de la primera reunión ministerial en el ámbito del Concejo, la cual tendrá lugar en septiembre. En la reunión ministerial, Canadá pasará la presidencia a otro estado ártico.

Para ganar tiempo e impulso, Canadá decidió entonces dar comienzo al planeamiento de un programa de desarrollo sustentable, para que sea dirigido y facilitado por el Concejo Ártico, organizando una Conferencia sobre Desarrollo Sustentable en Whitehorse. La conferencia contará con participantes de todos los Estados Árticos además de otras partes interesadas.

Proyecto de Educación y Desarrollo KNI

Uno de los proyectos que Groenlandia presentará en Whitehorse es el proyecto KNI Pilersuisoq titulado "Tiempo de actuar y hacer negocios". El proyecto trata de la educación y la capacitación así como el desarrollo, como sus componentes más importantes y está concebido para tener una dimensión institucional aparte de la imagen muy fundada en la comunidad.

Una de las primeras iniciativas con respecto a la educación y la capacitación fue la reciente reunión de 54 de los directivos de tiendas de las comunidades costeras en Nuuk para discutir las implicaciones del proyecto y las futuras perspectivas de KNI Pilersuisoq con políticos y organizaciones comerciales. Lo que caracteriza al proyecto es justamente que las comunidades están en el centro del proyecto. Además, KNI Pilersuisoq tiene como objetivo asegurar una mejor calidad de trabajo de la compañía mediante el compromiso personal y la influencia de los empleados, lo cual a largo plazo debería también brindar una mejor calidad de vida.

KNI Pilersuisoq tiene ambiciones de darle a su proyecto una dimensión internacional en el sentido que la compañía ve una oportunidad de exportar algunas de las ideas y conceptos a través de agencias para el desarrollo como la danesa Danida. Ésta ya tiene una estrategia para ayudar a los pueblos indígenas que ha elaborado en cooperación con el Gobierno Autónomo de Groenlandia y que tiene como uno de sus objetivos a nivel nacional incluir, cuando sea posible, a compañías groenlandesas en la provisión de asistencia para el desarrollo.

La presentación del proyecto en la conferencia de Whitehorse subraya la nueva tendencia de la compañía que tiene que ver con el hecho que la compañía se está convirtiendo en más autosuficiente y está generando un excedente de energía para hacer experimentos. La com-

pañía ha sido también la primera organización invitada a participar en el acuerdo de intercambio Groenlandia-Canadá, que es un proyecto piloto en el cual uno o dos estudiantes, trabajadores de empresas o funcionarios públicos viajarán primero a Canadá para estudiar servicios equivalentes. La segunda fase del proyecto se realizará en torno a la visita a Groenlandia de una o dos personas del norte de Canadá.

Creciente orientación internacional

Un ejemplo de la creciente orientación internacional es el hecho de que Groenlandia ahora estableció un Concejo de Comercio para coordinar y facilitar el desarrollo dentro del área del comercio internacional. El Concejo de Comercio consiste de un grupo de dirigentes empresariales y expertos nombrados por el Gobierno Autónomo de Groenlandia. La primera tarea del Concejo de Comercio es preparar una delegación comercial para participar en una visita oficial del Primer Ministro de Groenlandia a China y Japón.

Una importante consecuencia del deseo de Groenlandia de participar en asuntos internacionales en un sentido general, es la necesidad de capacitación en idiomas. Para cumplir con la necesidad de un estándar mejorado, fundamentalmente en términos de negociación internacional común y lenguaje de comercio -inglés-, Groenlandia ha establecido y restablecido su nuevo y anterior acuerdo con universidades canadienses a las cuales Groenlandia está enviando un creciente número de estudiantes para estadías cortas o más prolongadas.

Internamente, Groenlandia está preparando la capacitación pública en lenguas para una creciente participación internacional mediante el recientemente establecido "Centro de Lenguas" - Oqaatsinik Pikkorissarfik, el cual se ocupa del desarrollo y la provisión de una variedad de facilidades para capacitación en lenguas. Es muy importante que el Centro también está ocupado del desarrollo de facilidades para brindar capacitación en lenguas kalaallisut o groenlandés.

En el curso de una creciente necesidad y deseo de Cooperación entre Groenlandia y Canadá, para no mencionar a Alaska y Chukotka, el Gobierno Autónomo de Groenlandia decidió abrir una representación en conjunto con la Embajada danesa en Ottawa para facilitar el contacto y la divulgación de información entre Canadá y Groenlandia.

lo cual se está convirtiendo en más y más importante. La decisión fue impulsada por una visita de un ministro federal canadiense a Groenlandia, la cual fue también la fuente de inspiración para establecer un intercambio de acuerdos entre los dos países.

ICC para comprender el Espíritu Inuit de Participación Global

A nivel de ONGs, la Conferencia Circumpolar (ICC) también tiene como objetivo aumentar el nivel de consciencia y cooperación internacional - particularmente entre los inuit de las cuatro naciones árticas en las cuales viven actualmente los inuit. ICC está buscando un amplio y elevado nivel de participación internacional en la Asamblea General de este verano bajo el lema: Espíritu Inuit - para la Participación Global.

ICC junto con el Gobierno Autónomo de Groenlandia, IWGIA y otras organizaciones con sede en Copenhague, así como miembros parlamentarios y otros individuos han participado en la organización de audiencias públicas sobre las condiciones de vida en Chukotka y el norte de Rusia. El Ministerio para el Medio Ambiente de Dinamarca brinda apoyo financiero para proyectos de capacitación en Rusia. En Groenlandia, una red local afiliada a ICC recolectó ropa y dinero para Chukotka, en solidaridad y respeto por los pueblos indígenas de la región, enfrentados a condiciones de vida sumamente severas.

ICC está trabajando actualmente con pueblos indígenas de Belize para establecer el Instituto Indígena de Capacitación de Belize (BITI), un centro de capacitación en Belize. El proyecto es co-patrocinado por Danida y uno de los objetivos a largo plazo es extender los servicios a los pueblos indígenas de los países vecinos.

Elecciones generales al Parlamento de Dinamarca

Las recientes elecciones generales (11 de marzo) para el Parlamento danés no aportaron ningún cambio importante en términos de la representación política partidaria de Groenlandia. Los dos escaños de Groenlandia han sido tradicionalmente divididos entre los partidos Siumut y Atassut que ahora están en coalición y continúan haciéndolo después de la elección. No obstante, la gran sorpresa fue la tremenda victoria personal de la bastante desconocida y joven mujer política que repre-

senta al partido Atasssut. A partir de una muy reciente carrera en el Concejo municipal de Nuuk, la capital de Groenlandia, Ellen Kristensen de 26 años, logró obtener la más elevada cantidad de votos personales, más de 4.000. Así derrotó al miembro de Atassut del Parlamento danés desde 1977, Otto Steenholdt. Ellen Kristensen es la primera mujer groenlandesa electa miembro del Parlamento danés - y muy simbólicamente en el mismo año que marca el 50º aniversario de los derechos al voto y elegibilidad de la mujer en Groenlandia. El miembro parlamentario de Siumut durante los pasados 11 años, Hans Pavia Rosing, fue reelecto.

Cautas conversaciones sobre independencia

Un interesante aspecto de la campaña electoral ha sido el planteo de la independencia como uno de los objetivos más importantes por parte del partido de izquierda Inuit Ataqatigiit (IA). IA nunca aprobó plenamente la Ley de Autonomía de Groenlandia de 1979, sin embargo, durante la reciente campaña, el partido puso en tela de juicio el propio concepto de la Unidad del Reino de Dinamarca, alegando que es realista y necesario obtener la independencia total a más tardar durante los próximos 15 años. Mientras tanto, IA prometió luchar por un renovamiento de la colaboración con Dinamarca, la cual se cree que es anticuada y una reminiscencia de los tiempos coloniales. Uno de los argumentos es que Groenlandia ya ha ganado más espacio para maniobrar nacional e internacionalmente, pero esto todavía no ha sido formalizado - o formalmente reconocido.

La independencia ha sido un tema de debate en diferentes foros durante el año pasado. Sus simpatizantes se encuentran entre individuos que responden tanto a Siumut como a IA, mientras que Atassut sigue defendiendo la Unión con Dinamarca. Hasta el momento, el debate ha sido caracterizado por ser de naturaleza más emocional y populista que seria y factual, aunque hubo intentos de establecer un debate continuo fundamentado en un grupo de trabajo. Se habla frecuentemente de la independencia como un objetivo a largo plazo o eventual y generalmente expresada dependiendo del tratamiento de Groenlandia por parte de Dinamarca en términos generales. Debería subrayarse que las conversaciones sobre la independencia nunca implican

la separación de la monarquía danesa y la querida familia real. Finalmente, debería mencionarse que el Primer Ministro rechazó efectivamente la idea de impulsar cambios a la situación de Unidad del Reino en su discurso de apertura del Parlamento de Groenlandia. El Primer Ministro subrayó que la Ley del Gobierno Autónomo de Groenlandia otorga la suficiente flexibilidad en la asociación entre Dinamarca y Groenlandia. Una opinión que es completamente compartida por el otro miembro de la coalición, Atassut.

Una de las motivaciones, así como problemas de la discusión concerniente a la independencia, es que el propio significado y las posibles consecuencias de la independencia no parecen ser ampliamente comprendidos. Por ejemplo, la independencia es raramente expresada como incluyendo la independencia económica y, como tal, la interrupción del financiamiento danés central (bloque de subsidio). En esta conexión debería mencionarse que Dinamarca ha reaccionado generalmente en forma positiva a la idea de una eventual independencia de Groenlandia con respecto a Dinamarca. Durante la reciente campaña electoral uno de los líderes de la oposición sugirió el establecimiento de un nuevo organismo permanente consistente en representantes de los gobiernos de Dinamarca, Groenlandia y las Islas Feroe y los parlamentos, para facilitar la discusión de temas e intereses actuales entre Dinamarca, Groenlandia y las Islas Feroe. Esto es a pesar de que tal Concejo Real ya existe, en efecto, en forma que los 3 líderes gubernamentales que se reunieron en las Islas Faroe en primavera planean reunirse en Groenlandia en julio.

Groenlandia está actualmente negociando el nivel de la financiación central para los próximos 3 años. Todos los partidos y todos los candidatos a las elecciones generales expresaron interés en mantener el actual nivel o incrementar la financiación al mismo tiempo que la mayoría de los candidatos desde la izquierda a la derecha opinaban que Groenlandia debería tener más influencia y peso con respecto a los asuntos internacionales de interés e importancia para Groenlandia. Una demanda que está directamente vinculada a la base aérea militar de los Estados Unidos en Tule, y el tratamiento bastante desafortunado por parte de Dinamarca de las revelaciones de los años pasados por

parte de los medios de difusión y los expertos individuales relativas a la presencia del ejército de los EE.UU. en Groenlandia.

Más groenlandeses, menos extranjeros

Interesantemente, las conversaciones sobre la independencia, las cuales por parte de algunos participantes tenían a veces un dejo de racismo contra los daneses que trabajan y viven en Groenlandia, aunque la mayoría de los demás involucrados en las discusiones se han distanciado de cualquier punto de vista racista, se da en un momento cuando hay generalmente menos extranjeros - fundamentalmente daneses y faroeses viviendo en Groenlandia. Las cifras del 1 de enero de 1998 divulgadas por las Estadísticas Groenlandesas, revelan que la cantidad de personas nacidas fuera de Groenlandia ha caído de un pico de 9.572 en 1988 a 6.959 en 1998. La población total de Groenlandia era de 56.076 personas y es la más elevada de la historia. Con respecto a la cantidad de personas nacidas fuera de Groenlandia hay que remontarse a 1967 para encontrar una cifra menor, es decir, 6.420.

RUSIA

Los actuales procesos que viven los pueblos indígenas no son unívocos. 30 pueblos del norte de Siberia y del Lejano Oriente gozan de un estatus oficial de "pequeños pueblos indígenas de Rusia". Su número total - de acuerdo con las estadísticas oficiales - suma 200.000 individuos. Los etnógrafos rusos consideran que una cantidad mayor de personas ha preservado un estilo tradicional de vida en la tierra de sus ancestros. Ellos han enlistado 49 pueblos del norte, sumando un total de 1 millón de individuos. Además, la ley sobre "el estatus legal fundamental de los pequeños pueblos de Rusia", redactada en 1992, adiciona 17 pequeños pueblos indígenas del Norte del Cáucaso, sumando otras 100.000 personas.

La inclusión de estos pueblos del Norte del Cáucaso como beneficiarios de la ley federal sobre los derechos de los pueblos indígenas originó fuertes protestas por parte de los líderes de los miembros de la Federación Rusa del Norte del Cáucaso. Las leyes que se redactan en

el momento conciernen sólo a los "pequeños pueblos indígenas del Norte, Siberia y el Lejano Oriente".

Empeoramiento de las condiciones de vida y débil protección de los derechos a los recursos naturales

Existen serios datos que indican un empeoramiento de la situación demográfica y socioeconómica de los pueblos del Norte. En una audiencia parlamentaria de diciembre de 1997, A. B. Nazarov, quien encabeza el Comité del Concejo de la Federación sobre Asuntos del Norte y Pequeños Pueblos, destacó en su informe oficial que el promedio de expectativa de vida y la tasa de natalidad siguen cayendo, mientras que la mortalidad infantil y la mortalidad debida a los accidentes, el desempleo y el alcoholismo siguen en ascenso. Al mismo tiempo, sólo el 3% del Programa Federal "Desarrollo Económico y Social de los Pequeños Pueblos del Norte" fue financiado por el presupuesto estatal de 1997.

Las leyes sobre el derecho de los pueblos del Norte a los recursos naturales debían ser aprobadas -de acuerdo a un decreto presidencial- "antes de fines de 1992". Pero hasta ahora no ha sucedido nada. Algunos especialistas creen que a pesar del hecho de que no se ha aprobado ninguna ley especial sobre los derechos de los pueblos del Norte a nivel federal, no obstante, la "legislación rusa existente constituye una base cierta para la propiedad y el uso tradicional de la tierra" (V. A. Kryazhov).

En la Constitución (art. 69, 72) se garantizan derechos especiales en áreas tradicionales para los pequeños pueblos del Norte. Ciertos artículos de la legislación existente de la Federación Rusa "Sobre protección de la naturaleza", "Legislación forestal fundamental", "Ley sobre territorios protegidos especialmente", "Ley sobre la fauna", "Sobre el subsuelo", invisten a los pueblos indígenas con derechos especiales relativos al uso tradicional de los recursos naturales renovables. Prevén la compensación por los daños infligidos y -en caso de uso complejo- permiten el acceso a varios tipos de recursos para su uso tradicional por parte de los representantes de las comunidades territoriales de pueblos indígenas. Recientemente, algunas regiones han redactado e incluso promulgado sus propias leyes sobre los derechos

de los pueblos indígenas. Pero como las leyes regionales están repletas de terminología inconsistente y están abiertas a la interpretación, no permiten realmente el uso práctico de estos derechos. Desgraciadamente, tales leyes tienen muy poco significado para la implementa-

Nómadas kanthy de Siberia occidental (Foto: Alexander Pika)

ción de los derechos indígenas. Las organizaciones indígenas de Rusia tienen una limitada experiencia legal y muy poco dinero, y no acuden a la justicia con disputas sobre la interpretación y uso de las leyes. Recién cuando las leyes federales sobre los derechos de los pueblos indígenas del Norte hayan sido aprobadas, será posible que su sistema conceptual puede ser interpretado unívocamente, y recién entonces

433

las leyes seccionales y regionales sobre los derechos de los pueblos indígenas podrán tener un efecto pleno.

Mientras tanto, el empleo tradicional está decayendo y las áreas apropiadas para el uso tradicional de la tierra son cada vez menores. Estos indicadores son difíciles de probar, ya que tienen raíces ocultas. El primer indicador se hace confuso por el hecho de que la cantidad oficial de personas dedicadas a las actividades tradicionales ha decaído durante los últimos cinco años. No obstante, paralelamente con el desempleo, aumenta la cantidad de indígenas cuyo medio de subsistencia está basado exclusivamente en el uso directo de los recursos naturales.

Las áreas apropiadas para las actividades tradicionales disminuyen también en forma invisible. La disminución no sólo es explicada por la creciente actividad industrial sino también por el hecho de que las aguas apropiadas para la pesca y las pasturas de renos están siendo entregadas a compañías para su uso comercial. La industrialización a gran escala está amenazando áreas de uso tradicional de la tierra, por ejemplo, la apertura de depósitos de petróleo y gas en la plataforma marítima del norte y noreste de Rusia. Ya está en marcha un programa de permisos a pesar del hecho de que las agencias para la protección de la naturaleza se expresaron en su contra en 1996. Las grandes compañías petroleras y de gas han lanzado un ataque más agresivo contra las áreas de los pueblos del Norte.

Continúa el éxodo del Norte de gente con cierto nivel educativo y especialistas. En muchas comunidades indígenas, los hospitales y las clínicas ya no pueden funcionar. La tuberculosis y las enfermedades infecciosas están haciendo terribles estragos. Todo esto hace que seamos pesimistas sobre el futuro de los pueblos del Norte.

Movilización política y apoyo externo

No obstante, las actividades políticas de los pueblos del Norte están en aumento y también la ayuda de la comunidad internacional. La nueva dirección de AIPON (Asociación de Pueblos Indígenas del Norte) reorganizó la estructura de la organización. AIPON está trabajando ahora como contraparte de dos programas internacionales: un programa canadiense y la "Iniciativa dano-groenlandesa" (DGI). Ambos en-

caran una capacitación de la organización de AIPON y una expansión de su red de información. En el proyecto canadiense, el Comité Estatal del Norte (GOSKOMSEVER) y AIPON intercambiarán experiencias con los líderes indígenas canadienses y los funcionarios públicos de GOSKOMSEVER con sus colegas canadienses. El DGI coopera directamente con AIPON en la preparación de un proyecto de investigación sobre los problemas ambientales de los territorios de los pueblos indígenas del Norte ruso. El Centro de Información para los Pueblos Indígenas de Moscú continúa la capacitación de jóvenes dirigentes indígenas con fondos provistos por TACIS, Comisión Europea.

El Grupo Nacional de IWGIA de Moscú continúa su cooperación estrecha con las organizaciones regionales y centrales de AIPON y ayuda a organizar seminarios y preparar legislación para la Duma Estatal y los organismos legislativos regionales. Tres activistas de IWGIA están trabajando permanentemente como expertos de la Duma Estatal sobre legislación relativa a los derechos de los pueblos indígenas y conservación de la naturaleza. Además, IWGIA Moscú estableció relaciones de trabajo con el WWF. Se está realizando un trabajo preparatorio sobre un programa para la creación de refugios etno-ecológicos para la conservación del estilo de vida tradicional y el hábitat de los pueblos indígenas del Norte. Sigue siendo publicado "El Ártico Vivo" para difundir información sobre los problemas de los pueblos indígenas y el medio ambiente, con el objetivo de crear una plataforma informativa que armonice los intereses de los pueblos indígenas y las agencias de protección de la naturaleza de Rusia.

SÁPMI

Noruega

El área sur de los *sámi* se encuentra en el sur de Troendelag, en la mitad de Noruega. Es al mismo tiempo el área más meridional para la cría del reno. Aquí se encuentra un paralelo entre el límite étnico y el límite meridional para la principal actividad de los sámi, y es especialmente aquí, que el estilo de vida sámi está íntimamente conectado con la cría del reno. Los sámi del sur constituyen sólo una pequeña minoría en proporción a la mayoría noruega, y las relaciones entre los

dos grupos han sido frecuentemente caracterizadas por conflictos y hostilidades. Aparentemente, el conflicto recurrente trata sobre el derecho y el acceso a los recursos, pero no se puede excluir que existan otros factores ocultos como elementos concurrentes. Fue muy peculiar observar cómo el viejo conflicto se reprodujo a sí mismo en una nueva sentencia dictada por la Suprema Corte el 24 de octubre de 1997. En la misma, la empresa administradora de cría de renos Riast-Hylling perdió un caso que 27 terratenientes privados le habían presentado. La empresa administradora de cría de renos ya no tiene más derechos a ningún tipo de pastoreo para los renos en la propiedad de los demandantes al norte de Aursund, en el municipio de Roeros. La Suprema Corte basó su veredicto en un veredicto similar de la Suprema Corte de 1897, cuando los propietarios de renos fueron privados de partes del área actualmente en cuestión.

La Suprema Corte señaló que el conflicto de los últimos años entre los terratenientes y los propietarios de los renos, está conectado con el apacentamiento de los renos por parte de sus propietarios dentro del área de los terratenientes en Aursund.

La compañía administradora de cría de renos Riast-Hyllinge señaló que los dueños de renos sámi habían adquirido el derecho al apacentamiento en el área antes del veredicto de 1897. Además, señalaron que el material en que se basó el veredicto de 1897 fue elaborado por la Comisión Lapona en 1892. Esta comisión no era muy amistosa con respecto a los sámi, sus referencias estaban caracterizadas por las tendencias darwinistas de ese momento y no había ningún sámi en la comisión. Por otro lado, la Suprema Corte consideró que el veredicto de 1897 tenía que ser un punto central en una disputa similar del día de hoy. La administración Riast-Hyllinge perdió así el caso y fue condenada a pagar los costos que suman 255.307 coronas noruegas. El Parlamento Sámi condenó el veredicto y subrayó lo atemorizador que significa una aparente reversión a los primeros tiempos de la colonización de las áreas sámi. Al mismo tiempo, temen que este veredicto pueda ser el comienzo de la exterminación definitiva de la cultura sámi del sur en Noruega. A continuación del "caso Aursund", el Parlamento Sámi y la cooperativa de criadores de reno sámi de Noruega (NSR) solicitaron al ministro de justicia noruego el nombramiento de un co-

mité especial para la legislación de la cría del reno. Existen obvios paralelos entre el "caso Aursund" y una demanda legal similar en el sur del País Sámi, del lado sueco (ver *El Mundo Indígena* 1995-96, y *Asuntos Indígenas* Nº 2 -abril/mayo/junio de 1997).

El Parlamento Sámi

El 7 de octubre se abrió el nuevo Parlamento Sámi de Noruega. El ex-presidente del Parlamento Sámi, Ole Henrik Magga, no se presentó como candidato. El nuevo presidente del Parlamento Sámi es Svend-Roald Nyestoe, de la Liga Sámi Noruega (NSR) y la nueva vicepresidenta es Ragnhild L. Lystad, también del NSR. El NSR obtuvo 19 de los 39 escaños del nuevo Parlamento Sámi. Así, el NSR perdió su previa mayoría pero mantuvo su posición de liderazgo entrando en coalición con: la lista de los Segadores Sámi, la lista Establecida Sámi y el Sidja del medio de Norland. El partido que lidera la oposición es el partido laborista que aumentó su grupo de 9 a 12.

Svend-Roald Nystoe proviene de Tysfjord, y no del área central sámi como su predecesor. Tysfjord es una sociedad en la cual los sámi constituyen una minoría y donde la etnicidad contribuye a organizar muchas cosas de la vida cotidiana. Aquí la cría del reno no es muy importante y en cambio es el comercio mixto lo que prevalece. Nystoe dice que nació con una pierna en un barco de pesca y la otra en un establo. Por otro lado, la vicepresidente Ragnhild L. Nystad proviene de Karasjok, la cual es el área central sámi y es dominada por la cría del reno.

Suecia

El Parlamento Sámi

Igual que en Noruega, los sámi de Suecia celebraron elecciones para el Parlamento Sámi. Los electores eligieron entre 11 partidos lo que significa que había muchas formas de constelaciones para lograr una mayoría. La constelación que al final fue la triunfante con 16 de 31 mandatos, consiste de: la Liga de Propietarios de Renos, Mii Sámit, Solidaridad Sámi, Los Sámi, la Liga de los Sámi Suecos y los Sámi Cazadores y Pescadores. Fue electo como presidente del Parlamento Sámi Per Mikael Utsi, de la Liga de Propietarios de Renos.

El Parlamento Sámi es un organismo electo independiente. Su principal deber es promover una cultura sámi vital. La cultura debería ser considerada en una perspectiva amplia, la cual incluye las actividades económicas sámi. Esto significa que el Parlamento también contribuirá a la planificación social.

Una de las cosas importantes que hizo el nuevo parlamento es la elaboración de un manifiesto relativo al trabajo del parlamento del año 1997 al 2001.

Los temas principales son: Asuntos Legales, Información, la Lengua Sámi, la Cultura, la Educación y la Investigación, el Comercio, los Asuntos relativos al Medio Ambiente, la UE y los Asuntos Sámi, y los Asuntos Nórdicos e Internacionales.

El 29 de agosto de 1997 fue la fecha de una apertura muy dramática del nuevo parlamento sámi. Se suponía que el rey sueco abriría el Parlamento Sámi, pero a último minuto, el rey se negó a hacerlo aunque estaba en la reunión de apertura. La razón de esto es el conflicto sobre la caza menor en las áreas sámi. En conexión con una revisión de la Ley de la Cría del Reno de 1993, el estado sueco decidió apropiarse del derecho a administrar la caza menor en las áreas sámi. Según la costumbre, las aldeas sámi siempre han tenido el derecho a administrar la caza menor dentro de sus propias áreas. Desde entonces ha habido disputa. El Parlamento Sámi, las aldeas sámi y las principales organizaciones sámi protestaron contra la regulación durante muchos años. Cuando se supo que el rey el día después de la apertura habia planeado participar en una cacería dentro del área de la aldea sámi Saarivuoma, Olaf Johansson, miembro del Parlamento Sámi, le escribió al rey y le solicitó no participar de esta caza. La reacción del rey fue negarse a abrir el Parlamento Sámi. Por otro lado, el rey participó en la caza de la perdiz roja. Lo que hizo fue algo no tradicional para un rey escandinavo, ya que existe una tradición de que la corona no interfiera para nada en la política.

En Jaemtland se hizo obvio que existe una comercialización de la caza menor. Esto lo dicen tanto los propietarios de renos como los funcionarios públicos de la región. Incluso hubo informes sobre aviones que han acuatizado en lagos de montañas donde estaba prohibido acuatizar. Como los intereses de los cazadores han aumento, el merca-

400

do de la perdiz roja también se puso más interesante. Este año, dos de las más importante compañías aéreas; Heliflyg y Polarflyg, transportarán a los cazadores de la perdiz roja a las montañas. En años anteriores no lo habían hecho a causa de las protestas de las aldeas sámi. Las aldeas sámi habían sido importantes clientes.

Rusia

La cooperación entre la compañía noruega Reinprodukter AS y los comerciantes de reno de la Península de Kola está en peligro de ser destruida. Existe una carencia de carne de reno en las carnicerías de Finnmark en Noruega. Esto dio posibilidad a la exportación de renos de Kola a Noruega. Reindprodukt AS paga tres veces más que el precio en el mercado ruso, por lo que este negocio brindó una mejor situación a la cría del reno sámi en la Península de Kola, cuya situación era muy desesperante. La situación económica del área es desastrosa. La tasa de desempleo es mayor del 60% y las condiciones de vivienda son muy malas. En 1997, los sámi de Kola enviaron 904 renos vivos a Noruega. Esto era una pequeña cantidad pero suficiente para que el Comercio de Renos "Voskhod" pagara el salario a 150 trabajadores. Este desarrollo positivo fue detenido por las autoridades noruegas, las cuales elevaron el impuesto sobre la carne de reno. El presidente del Parlamento Sámi noruego, Sven-Roald Nystoe solicitó al ministro de relaciones exteriores noruego que aboliera el impuesto sobre la carne de reno rusa.

Finlandia

Las empresas sámi criadoras de reno Sámi Anni Äärela y Jouini Näkkäläjärvi de Sálleváre perdieron un juicio contra el estado finlandés en la corte del distrito, que procuraba detener toda la tala de árboles en Kariselkä. Esto significó que se les impuso el pago de los costos que suman 70.000 marcos finlandeses. La cantidad puede ascender a 100.000 marcos si la Suprema Corte mantiene su veredicto. También han habido juicios sobre minería y forestería en otras áreas sámi. Los sámi recurrieron a estas demandas judiciales para proteger su cultura y sus costumbres. Los sámi de Finlandia tienen el apoyo del Parlamento Sámi en su lucha para fortalecer sus derechos tradicionales co-

merciales. En un formulario del Parlamento Sámi al gobierno finlandés, se dice, por ejemplo: "Es ridículo que los sámi de Finlandia hayan sido forzados a presentar una demanda contra las autoridades estatales y las grandes empresas internacionales porque el gobierno finlandés ha sido pasivo en lo relativo a solucionar los derechos de los sámi finlandeses a la tierra y el agua. El proceso jurídico no ha sido aceptable en una perspectiva jurídica internacional. Especialmente cuando el adversario de los sámi ha sido en este caso las autoridades finlandesas. Los derechos a la tierra y al agua en las áreas sámi de Finlandia deben ser resueltos lo antes posible".

Fuentes:
Ságat
Samefolket
Reindriftsnyt
Parlamento Sámi de Noruega
Parlamento Sámi de Suecia

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AMÉRICA DEL NORTE

CANADÁ

El impacto de las elecciones federales sobre la política aborigen

La elección del 2 de junio de 1997 resultó ser una derrota moral para el Partido Liberal. Aunque el partido todavía gobierna Canadá, perdió muchos escaños y ahora gobierna con una pequeña mayoría en la Cámara de los Comunes. No obstante, la oposición está muy dividida internamente. El derechista Partido Reformista es fuerte en las provincias occidentales de Canadá pero ha sido incapaz de lograr apoyo en las partes centrales y orientales del país, mientras que el separatista Bloc Quebecois domina la oposición en Quebec. El crecimiento del Partido Reformista ayudó a empujar al Partido Liberal hacia la derecha, y la elocuente oposición del Partido Reformista a los "derechos especiales" para los pueblos aborígenes probablemente no aumente la disposición del gobierno para elaborar e implementar una fuerte agenda aborigen.

Esa agenda tendrá que encarar el informe de 1996 de la Comisión Real sobre Aborígenes (RCAP), la cual documentó un amplio abanico de temas aborígenes, incluyendo el hecho de que los pueblos aborígenes de Canadá tienen las peores condiciones de vida de todos los grupos de la sociedad canadiense. La RCAP, que comenzó su trabajo en 1990 después del enfrentamiento armado de 11 semanas de duración entre la Mohawks Warrior Society (Sociedad de Guerreros Mohawk) y el ejército y la policía canadienses (ver *Anuario IWGIA 1990* y *El Mundo Indígena 1994-95*), realizó exhaustivas recomendaciones sobre cómo los diversos niveles del gobierno podían mejorar la situación económica, social y cultural de las Primeras Naciones de Canadá.

La Suprema Corte sentencia sobre el término "Título Aborigen"

Los tratados indios siempre han sido un importante aspecto de la relación entre las Primeras Naciones de Canadá y la Corona, la cual ahora es representada por el gobierno Federal. El derecho canadiense distin-

gue entre Tratados pre- y pos-Confederación y "acuerdos comprehensivos de reivindicación de tierras modernos".

Los tratados Indios Históricos son referidos como pertenecientes a la era pre-Confederación, de 1725 a 1867 o a la era pos-Confederación, entre 1867 y 1923 (los cuales están numerados del 1 al 11). En unas cuantas instancias, los *métis* participaron de tratados Indios históricos, pero no se hizo ningún tratado con los *inuit*. En total, se hicieron 67 tratados Indios entre la Corona y las Primeras Naciones de Canadá. Están protegidos por la sección 35 de la Ley Constitucional de 1982. Tanto el gobierno como los tribunales de justicia comparten la opinión de que los tratados Indios del Canadá son *sui géneris*. Esto significa que no son creados ni terminados de acuerdo a las reglas del derecho internacional, y constituyen una forma diferente de contratos.

Desde 1960, una creciente cantidad de casos relacionados con los tratados ha desarrollado una serie de principios de interpretación por parte de las cortes de justicia para guiarlos en sus consideraciones de los tratados y de los derechos que surgen de los mismos. De acuerdo con el Departamento de Asuntos Indios y del Norte (DIAND), estos principios son resumidos de la siguiente manera:

1) Se debería otorgar al tratado una interpretación justa, amplia y liberal en favor de los indígenas.

2) Los tratados no deben leerse de acuerdo al significado técnico de sus palabras, sino en el sentido que hubieran sido naturalmente comprendidos por los indígenas.

3) Como siempre está comprometido el honor de la Corona, no debería sancionarse ninguna apariencia de "negocios equívocos".

4) Cualquier ambigüedad de la redacción debería ser interpretada en contra de los redactores y no debería ser interpretada en perjuicio de los indígenas, si otra interpretación es razonablemente posible.

5) La evidencia por conducta o de otra forma sobre cómo las partes entendieron el tratado debe servir de asistencia para darle contenido.

Los acuerdos comprehensivos de reivindicaciones de tierra son reconocidos como tratados por la Sección 35(3) de la Ley Constitucional de 1982. Las reglas antes mencionadas no se aplican a los mismos ya que las cortes opinan que las condiciones bajo las cuales estas reivindicaciones de tierra son negociadas implican que las Primeras Naciones involucradas están bien asesoradas e informadas. Por lo tanto, debería aplicarse el principio general de neutralidad en la interpretación. El primero de estos tratados fue el Acuerdo de James Bay y Quebec Septentrional de 1975. Independientemente de los bonitos principios, existen muchas disputas legales y políticas entre los pueblos indígenas y ambos niveles del gobierno canadiense sobre cómo interpretar los tratados y los derechos que surgen de los mismos (ver informes en *El Mundo Indígena* desde su primera publicación). Una sentencia de la Suprema Corte de diciembre de 1997 en el caso Delgamuukw hizo importantes aclaraciones sobre algunos de estos temas, ampliamente en favor de los pueblos indígenas (párrafo siguiente).

La parte de Canadá en donde esta sentencia tendrá el mayor impacto es Columbia Británica, donde nunca se firmaron tratados. El Proceso de Tratado de Columbia Británica, que involucra al gobierno Federal, la provincia de Columbia Británica y las Primeras Naciones de Columbia Británica, fue lanzado al caos por el impacto de la decisión. "Las Primeras Naciones de esta provincia requieren certeza y no sólo negocios y gobierno. La histórica decisión Delgamuukw nos otorga una única oportunidad de resolver cómo el título y los derechos aborígenes coexisten con los derechos de los otros en Columbia Británica", dijo el Gran Jefe Edward John, un miembro del Grupo de Trabajo de la Cumbre de las Primeras Naciones. La forma específica mediante la cual esa coexistencia tendrá lugar aun queda por determinarse.

Delgamuukw y "El Imperio de la Ley"

En diciembre de 1997, una decisión de la Suprema Corte de Canadá puso fin al caso judicial de reivindicación de tierras de Primeras Naciones de más antigüedad de la historia del Canadá. Hace más de 20 años, los aproximadamente 8.000 *gitxsan* y *wet'suet'en* declararon su intención de negociar el reconocimiento de su propiedad y jurisdic-

ción y autogestión sobre 58.000 kilómetros cuadrados en el noroeste de Columbia Británica, que constituyen su territorio tradicional. Como varios años de conversaciones no condujeron a ninguna parte, optaron por la acción legal. El jefe hereditario gitxsan, Delgamuukw, fue el demandante principal, junto con otros 50 jefes hereditarios, por lo que la acción legal se denominó con su nombre.

En un juicio en 1987 ante la Suprema Corte de Columbia Británica, los gitxsan y wet'suet'en presentaron un enorme cuerpo de evidencia sobre su cultura, su historia, y su relación con sus tierras y entre ellos. Esta evidencia fue única en tanto que fue presentada por el mismo pueblo de las Primeras Naciones, en sus propias lenguas. La riqueza y el poder del testimonio fueron registrados en el libro de Don Monet y Skanu'u "Colonialismo en juicio" (New Society Publishers, 1992).

En una decisión que podría haber sido escrita hace 100 años, el Juez Supremo McEachern, sentenció que cualquier derecho aborigen que los gitxsan y los wet'suet'en pudieran haber detentado había sido extinguido por el gobierno colonial de Columbia Británica. Los derechos aborígenes existen a placer de la Corona, escribió, y pueden ser extinguidos por la misma si así lo decide hacer. Por lo tanto "La realidad de la propiedad de la Corona del suelo de toda la tierra de la provincia está fuera de discusión..."

Mientras que las Primeras Naciones estaban "ganándose a duras penas una vida aborigen" la cual "en el mejor de los casos, era desagradable, bruta y restringida", escribió McEachern, los europeos estaban dedicados al "descubrimiento, la exploración, la colonización y el desarrollo". Los imperativos económicos de la colonización europea habían dado origen a imperativos legales según los cuales los derechos de las Primeras Naciones podían ser extinguidos sin su conocimiento o consentimiento, y sin compensación. Es más, McEachern escribió que los jefes y ancianos habían presentado simples "creencias" y "asuntos de fe", en vez de pruebas "reales". Incluso aventuró la opinión de que las Primeras Naciones son culpables de su propia opresión porque no han "logrado adaptarse" al mundo moderno.

Fue el tono racista de la sentencia lo que pasmó tanto a los gitxsan y wet'suet'en como a muchas personas no-nativas. El antropólogo de la Universidad de Alberta, Michael Asch, escribió que la decisión tra-

taba a las Primeras Naciones como "algo similar a los lobos", mientras que el antropólogo de la Universidad de Columbia Británica, Robin Ridington, escribió que la provincia "puso conscientemente todo tipo de trampas racistas en las que podían pensar, y él compró todo el paquete". Si un estudiante hubiera escrito la sentencia como un ensayo, dijo Ridington, "no sólo uno pondría una enormidad de tinta roja sobre la misma, sino que uno diría, 'Mire, por favor, venga a hablar conmigo... Ud. tiene serios problemas'". Ridington describió a McEachern como "particularmente ciego a las presunciones no explícitas de su propia cultura" y que poseía "una visión del mundo y una ideología apropiada a una cultura de expansión colonial y dominación".

Precisamente por estas razones, McEachern se convirtió en un héroe instantáneo para la derecha racista de todo Canadá, y especialmente en Columbia Británica. El libro de Mel Smith "¿Nuestro hogar o tierra nativa?", la biblia del movimiento anti-aborigen del Canadá, puso por las nubes al juez y a su sentencia.

Después de una revisión inconclusa por parte de la Corte de Apelaciones de Columbia Británica y otra ronda fracasada de negociaciones, los gitxsan y wet'suet'en se dirigieron a la Suprema Corte de Canadá. Allí, una estrecha mayoría de la corte revocó la sentencia de McEachern - concluyendo en cambio que los pueblos aborígenes que no han firmado tratados tienen un derecho constitucional a sus propias tierras ancestrales y a usarlas casi completamente como quieran, insistiendo que las cortes deben considerar seriamente las pruebas aborígenes presentadas en forma de historia oral, y concluyendo que es necesario un nuevo juicio si no se puede llegar a una solución negociada. Los gitxsan declararon "Victoria completa".

El derechista Instituto Fraser publicó un anunció a toda página en el *Vancouver Sun* para infamar a los jueces de la Suprema Corte por haber sido indebidamente influidos por "profesores de derecho radicales y utópicos". La sentencia "otorga prácticamente el control del 95 por ciento de la superficie de Columbia Británica a un 5 por ciento de la población", exageró el instituto. Gordon Gibson, la voz de la derecha de Columbia Británica escribió en las páginas abiertas para la opinión del *Globe* y el *Mail*, que la decisión "reafirma que el tratamiento de los nativos en base a la raza no es solamente permitido, sino

necesario", y llamó a la sentencia "un error pasmoso"; el peor ejemplo de "la pestilencia de la jurisprudencia". Mel Smith lamentó el desconocimiento de las "reglas de prueba establecidas hace mucho tiempo" y "el imperio de la ley fundado en los principios del derecho vigente".

Comentando estos aullidos de furor, un observador comentó que "un dialecto entero de fraseología política que construyó las carreras de la mayoría [de los políticos de derecha] fue completamente descartado, expulsado a risas de la corte".

¿Qué impacto tendrá la decisión? El prominente Jefe Joe Mathias de Columbia Británica dijo que "la decisión restaura en alguna medida [nuestra] fe en el imperio de la ley". Pero debería notarse que la decisión Delgamuukw aprobada por el más pequeño de los márgenes: el voto decisivo estuvo de acuerdo en diferentes puntos tanto con la opinión de la mayoría como la de la minoría, opinando que ella va a revalorar su apuesta para la próxima vez y el valor predecible y confiable de esta sentencia, es limitado. No obstante, la sentencia de la Suprema Corte sobre el caso Delgamuukw podría probar ser una de las más prominentes -y progresistas- decisiones de la historia moderna canadiense.

El texto de la sentencia puede encontrarse en:
http://kafka.uvic.ca/~vipirg/SISIS/Clark/97delrul.html

AFN eligió un nuevo Jefe

La Asamblea de Primeras Naciones (AFN), la mayor organización indígena de Canadá, que abarca a 623 tribus y naciones con unos 400.000 individuos con "Estatus Indio", eligió un nuevo Jefe el 1 de agosto de 1997. Phil Fontaine de Manitoba derrotó al ocupante del cargo, Ovide Mercredi y se convirtió en el Jefe Nacional.

La actitud de Ovide Mercredi puede ser caracterizada como de tácticas cautelosas para lograr mejoras a través de negociaciones, con períodos de retórica militante cuando las negociaciones protegidas avanzaban algo en el camino de lograr resultados. Esta falta de progreso y la sentida falta de coherencia de parte de Mercredi resultaron en la selección de un Jefe Nacional que es considerado como próximo

al partido gobernante, el Partido Liberal, y particularmente próximo a la Ministra de DIAND, Jane Stewart.

La Nación India Lubicon Lake

Considerando la situación de la Nación India Lubicon Lake, uno se ve forzado a decir que no hay nada nuevo bajo el sol. Tanto el gobierno Federal como el gobierno de la provincia de Alberta mantuvieron ocupada a la dirección *lubicon* encabezada por el Jefe Bernard Ominayak con conversaciones vacías - las pocas veces que existieron tales conversaciones. Cuando Ominayak trató de entrar en contacto directo con la recién nombrada Ministra de Asuntos Indios y del Norte, su personal no pudo encontrar una fecha para una conversación personal ni para una conversación telefónica.

Al mismo tiempo, los lubicon se ven forzados a luchar en el frente de los rumores. La compañía maderera nipona-canadiense Daishowa, que detenta amplios derechos madereros en y en torno del área tradicional de los lubicon, esparció el rumor de que miembros de la tribu lubicon o algunos de sus parientes de la vecina Woodland Cree Band o de la Loon Lake Band estaban dispuestos a trabajar para la compañía durante la próxima estación de talado. Cierto o no, los lubicon tienen que realizar un esfuerzo extra para convencer al público y a las autoridades de que ellos todavía defienden sus derechos. (Por más detalles relativos a la historia del conflicto ver *El Mundo Indígena* desde 1988 y *Asuntos Indígenas* 2/95 y 1/96).

La Woodland Cree Band no es una tribu histórica, y fue fundada por el gobierno canadiense en 1989 bajo la cláusula especial de la Ley India. La fundación de esta tribu fue considerada en amplios círculos como un intento de dividir a los lubicon y otorgar una reserva y una compensación lo más pequeñas posibles. Como la base económica de la tribu es diminuta, en el momento actual está más o menos en bancarrota. Lo mismo puede decirse de la Loon Band. No sería de sorprender que miembros desesperados de estas tribus aprovechen cualquier oportunidad para mejorar su propia situación.

Asuntos Indígenas informó el año pasado sobre la demanda presentada contra los Amigos de los Lubicon (FOL). Como la corte en

una segunda instancia, al otorgar el interdicto a Daishowa, prohibió a FOL continuar con el exitoso boicot de consumo en 1996, la compañía aprovechó el año pasado para tratar de quebrantar finalmente a FOL, demandándolos por daños y perjuicios. Daishowa declara que el boicot de FOL causó perjuicios por valor de 9 millones de dólares canadienses. Una sentencia negativa podría arruinar financieramente a los miembros de FOL, así como también podría dañar seriamente la capacidad de los grupos simpatizantes de publicitar los delitos de las grandes compañías.

Otro gran signo de interrogación en el caso actual contra FOL es el trabajo del abogado de Daishowa, John Hunter. Él estaba empleado por la firma de abogados Davis & Company, la cual trabajó para los lubicon de 1986 a 1988. La corte negó una solicitud de FOL para su suspensión del caso debido a un posible conflicto de intereses.

Siendo el caso tan triste en general, tiene la implicación positiva de que Daishowa no se atreve a comenzar el proceso de talado en el territorio tradicional lubicon para evitar una peor publicidad. Daishowa intentó jugar el papel de censor para limitar la información del público con relación a sus esfuerzos legales. La compañía intervino cuando la Canadian Broadcast Company (CBC) quería retransmitir una entrevista con algunos lubicon que utilizaban la palabra "genocidio".

Además, a una compañía estadounidense de internet se le pidió censurar el material sobre los lubicon y agregar información "complementaria".

Mientras que las extensas -y, para los lubicon, agotadoras- batallas legales continúan, un par de compañías petroleras están tratando de explotar los grandes depósitos de arena alquitranada de Alberta, incluyendo aquellos que se encuentran en el territorio tradicional lubicon y el área que está destinada para su reserva. Un problema que despierta particular preocupación es que la producción de un barril de petróleo crudo exige una cantidad nueve veces mayor de agua, y luego de ser procesada esta agua queda caliente y estéril. Se planifica usar un acuífero, que fluye a 700 metros de profundidad, para sostener la producción petrolera. El extraer enormes cantidades de agua subterránea y retornar agua que es más caliente que lo común para la región, puede causar un daño imprevisible al medio ambiente.

Como se mencionó en *El Mundo Indígena* 1996-97, varias compañías mineras diamanteras han obtenido derechos de prospección en Alberta y en los Territorios del Noroeste. Como ambos niveles del gobierno canadiense están aparentemente desinteresados en solucionar la reivindicación de tierra de los lubicon, y como la justicia está firmemente del lado de Daishowa, la declaración del año pasado (que el hallazgo de kimberlita podría ser una oportunidad para que los lubicon lograran una solución para sus problemas porque las compañías mineras buscan claras situaciones legales) fue quizá demasiado optimista. Los lubicon están demasiado lejos de donde se encontraron realmente los diamantes para que los acuerdos socioeconómicos realizados en el Territorio del Noroeste los beneficien. Afortunadamente, los lubicon todavía están luchando. El poderoso testimonio del Jefe Ominayak durante el juicio de FOL es una prueba de esto.

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ESTADOS UNIDOS

Mes del Patrimonio Nacional Indio Americano

El mes de noviembre de 1997 fue proclamado por el Presidente Clinton como el Mes del Patrimonio Nacional Indio Americano. Él declaró, p.ej., que "Los forjadores de nuestra Constitución incorporaron a las naciones Indias en el marco político y legal de este país, uniendo para siempre el destino de las naciones tribales con el del pueblo americano. Mediante esta acción, nuestros fundadores adjudicaron a ellos mismos y a las futuras generaciones, la obligación moral de cuidar los derechos y las libertades fundamentales de los pueblos tribales de nue-

stro país tan celosamente como protegemos los derechos de todos los americanos. Mientras que entramos en el próximo milenio, tenemos una excitante oportunidad de abrir una nueva era de comprensión, cooperación y respeto entre todos los habitantes de América. ... En reconocimiento de las obligaciones morales y legales de América con relación a los Indios Americanos y a los Nativos de Alaska, y a la luz de la especial relación de confianza entre los gobiernos tribales y el Gobierno de los Estados Unidos, celebramos el Mes del Patrimonio Indio Americano".

A pesar de estas nobles palabras, los resultados de los actuales conflictos entre las naciones indígenas por un lado y las autoridades de los EE.UU. y las compañías son frecuentemente bastante distintos que las pretenciosas declaraciones.

La Nación Blackfeet

Después de haber logrado prolongar la prohibición de perforación en el Área Badger-Two Medicine tres veces por las autoridades federales, los *blackfeet* tienen buenas razones para mirar al futuro en forma optimista (ver también El Mundo Indígena desde 1994-95). Esta área no sólo es sagrada para los blackfeet, en la cual detentan derechos especiales de acuerdo a los tratados firmados entre ellos y los Estados Unidos en 1855 y 1895, sino también una de las últimas tierras intocadas de América del Norte y un refugio para muchas plantas y animales amenazados.

No obstante, apoyándose en una declaración insuficiente de Impacto Ambiental (EIS) del Servicio Forestal de los EE.UU. (USFS) de 1993, dos compañías petroleras, Chevron (americana) y PetroFina (belgo-americana), obtuvieron permisos de perforación para casi toda el área, aunque las posibilidades de encontrar petróleo eran estimadas en cerca de un 0,5 por ciento. Estos intentos de perforación aquí con todas las posibilidades en contra fueron ampliamente considerados como un caballo de Troya, para crear un precedente para la apertura de minas en otras partes del norte de los EE.UU. y Alaska.

Después de varios años de protesta de los blackfeet y organizaciones ambientalistas, que lograron el apoyo de varios grupos de apoyo

451.

europeos a los derechos indígenas y ambientalistas, las autoridades federales ofrecieron a las mencionadas compañías petroleras compensación por la renuncia a los derechos a la perforación. Esta era la única forma legal para que las autoridades anularan los derechos a la perforación cuando el USFS declaró en la Declaración Final sobre Impacto Ambiental que no se emitiría ningún permiso de perforación para todo el Frente Norte de las Montañas Rocosas en el futuro. Chevron ya aceptó 8 millones de US$ en septiembre de 1997 y la aprobación final por el Congreso es considerada como segura.

Las autoridades están en contacto con PetroFina para llegar a un acuerdo similar. Si PetroFina cumple con la declaración del Sr. Jean Castelein, Vicepresidente de Salud-Seguridad-Medio Ambiente-Calidad, del 5 de mayo de 1977 de que "...Fina Inc. (la subsidiaria americana - el autor) y PetroFina no estaban en condiciones de comenzar ninguna actividad en la región. Además, nuestra compañía no se considera con derecho a intervenir en un debate político...", se espera que la compañía siga el ejemplo de Chevron.

No se puede esperar una retirada de las compañías petroleras del área del Frente Norte de las Montañas Rocosas sin resistencia. Tres asociaciones de compañías petroleras locales presentaron una demanda contra la mencionada decisión de USFS. Pero en general, la situación parece ahora mejor que nunca para los blackfeet. Será decisiva la creación final de algo llamado como el Distrito Cultural Tradicional Blackfeet (BTCD) dentro de los límites del Área Badger-Two Medicine de acuerdo a la Ley Nacional de Preservación Histórica (NHPA) para el mantenimiento de su patrimonio cultural y la práctica de su religión. La creación del BTCD fue anunciada por el Secretario de los EE.UU., Bruce Babbitt en 1996.

Por más información tomar contacto con:
Ron West, P.O. Box 301
West Glacier, Montana 59936 EE.UU.

http://conbio.bio.uci.edu/nae/knudsen2.html

Blackfeet Support Group.

att: Marten Briese
Teltower Str. 17, D-13597 Berlin
Alemania

Chippewa

Después de haber abandonado sus planes para abrir una mina de cobre-zinc de 350 hectáreas, la compañía minera internacional EXXON retornó al área de la Potencial Mina Crandon en la parte norte de Wisconsin en 1994. Esta gran área está todavía cubierta con bosques casi vírgenes y es el territorio de varios pueblos indígenas como los *menominee, potawatomi, oonedia, stockbridge* y *munsee*. Su base de subsistencia es todavía en parte la caza, la pesca y la cosecha de arroz silvestre.

La propuesta Mina Crandon podría producir cobre, zinc y especialmente metales venenosos como mercurio, plomo, arsénico y cadmio y sería ubicada en las nacientes del Río Wolfe, la cual es una enorme área de bañados. Incluso funcionarios de alto nivel de EXXON tuvieron que admitir que "...sería difícil encontrar un lugar peor para una mina". Durante el tiempo planeado de operaciones, de 20 a 25 años, la mina produciría unas 44 millones de toneladas de desechos. De acuerdo con la Agencia de Protección Ambiental (EPA), el terrero necesario de 150 hectáreas y 30 metros de profundidad es muy difícil de controlar y no pueden evitarse las filtraciones. Terreros como el de la Mina Crandon deberían ser observados durante aproximadamente 9.000 años mientras que EXXON sólo planea hacerlo durante 40 años después de finalizado el tiempo de operaciones.

La mina propuesta no sólo amenazaría el medio ambiente casi virgen, sino que también destruiría el estilo de vida tradicional de las tribus mencionadas. Los nuevos empleos prometidos en la mina no podrían ser cubiertos con miembros de las tribus en una medida destacable ya que se exige capacitación especial para trabajar en una mina moderna de alta tecnología.

Por otro lado, casi el 90 por ciento de los chi*ppewas* de la Reserva de Mole Lake, ubicada en las cercanías, todavía dependen de la cosecha de arroz silvestre, la pesca y la caza. El Concejo Tribal marcó su

posición con respecto al proyecto de la Mina Crandon cuando rompió un cheque en pedazos. Este "dinero sucio" aseguraría a EXXON los derechos de explotación en la reserva.

El anciano menominee Hilary J. "Sparky" Waukau comentó la intención de explotación de EXXON de la siguiente manera: "Mientras que esos metales valiosos estén en el suelo, nosotros como seres humanos no podemos descansar porque la bestia de la codicia y la explotación penderá sobre nuestras cabezas y sobre las generaciones que habitan esta parte del país hasta el fin de la eternidad".

Por más información tomar contacto con:

Menominee Nation Treaty Rights & Mining Impacts
P.O. Box 910
Keshena, WI 54135
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tel.: +1 (715) 799 5620
fax: +1 (715) 799 5692
http://www.menominee.com/nomining/home.html
http://www.menominee.com/treaty/hom.thml

¿Está finalmente "resuelta" la controversia hopi-dineh de Big Mountain?

Cuando el Congreso promulgó la Ley Pública 93-531 (PL 93-531), tenía la intención de resolver un conflicto entre la tribu Big Mountain Dineh (*navajo*) y la tribu Hopi (*moqui*). Para el público y el legislador, la ley parece ser la solución de un conflicto de un siglo de duración entre las dos tribus con respecto a los derechos de pastoreo, resolviéndolo mediante la división de la tierra en cuestión en dos partes. Unas 25 familias *hopi* y 12.000 *dineh* deberían ser reasentadas en sus partes correspondientes y ambos pueblos vivirían divididos en el futuro. Esto fue regulado por la así llamada "Ley de Resolución de Disputa sobre la Tierra Navajo-Hopi" de 1996 (PL 104-301). Esta ley incluye el Acuerdo de Acomodación (AA) de 1988, el cual arrienda el territorio dineh a ellos mismos durante 75 años sin la garantía de prolongación

del arrendamiento indefinidamente. Los dineh podrían quedarse en su territorio siempre y cuando estén dispuestos a vivir bajo la jurisdicción hopi y bajo condiciones económicas limitadas. Los niños de las familias dineh afectadas no tienen el derecho de encontrar su propia residencia, aunque es ya obvio que las 112 residencias dineh planeadas en la Tierra de Partición Hopi (HPL) son inadecuadas. Además, los dineh tendrían que pedir permiso para celebrar ceremonias sagradas. Si los dineh están de acuerdo con estos términos, podrían permanecer en su territorio y el congelamiento de construcción de 20 años, que prohíbe hasta las reparaciones más pequeñas de los hogares dineh, sería levantado. El Concejo Tribal HOPI (HTC) preserva todos los derechos a terminar el arrendamiento en cualquier momento.

Lo que podría ser considerado por el legislador como una solución justa fue rechazada por los dineh desde el comienzo debido a la necesaria evicción de tu territorio. Lo que es en general desconocido o quizá mantenido en secreto es el hecho de que los hopi y lo dineh han vivido pacíficamente juntos durante siglos. En realidad, la llamada "guerra de las pasturas" fue orquestada por algunos hopis deseosos de ganar dinero a partir de los derechos de explotación, con el apoyo de la Compañía Peabody Coal (PCC).

Aunque los hopis y sus ancestros habían sido los primeros habitantes mientras que los dineh invadieron su país hace muchas generaciones, fueron capaces de compartir la tierra debido a sus diferentes bases económicas. Mientras que los hopi practicaban la horticultura extensiva, los dineh vivía como cazadores y recolectores y más tarde, después del contacto con los españoles y sus animales domésticos, especialmente como pastores. De esta manera, no fue un problema vivir juntos dentro de la gran reserva navajo que fue creada en 1882. Este hecho fue frecuentemente confirmado tanto por los ancianos y tradicionalistas dineh y hopi. Una parte de esta reserva era la llamada Área de Uso Común (JUA), la cual causó el conflicto entre los hopi y los dineh durante unos 25 años.

Pero en vez de llamar al conflicto una controversia entre dos pueblos indígenas, debería llamárselo por su nombre genuino: un conflicto relativo a los derechos de explotación de enormes recursos carboníferos en el área y quién debería beneficiarse de los mismos. El HTC

era, y todavía lo es, favorable a vender los derechos de explotación a PCC mientras que la mayoría de los dineh afectados quieren seguir el estilo tradicional de vida y se oponen a la destrucción de una gran parte de su territorio. Como su territorio se puede caracterizar en general como árido y semi-árido, los dineh necesitan enormes áreas de pastura para evitar el pastoreo excesivo. Por otro lado, PCC explota los depósitos de carbón por franjas bajo términos provisorios, sin ser molestada por interdictos ambientales. Como el HTC, que tiene la legislación formal sobre JUA, alegó que el frágil medio ambiente tenía que ser protegido contra el exceso de pastoreo, usó todos los métodos para lograr la evicción de los dineh. Su ganado fue repetidamente confiscado, la última vez en agosto de 1997. Los dineh restantes son frecuentemente acusados de violar los términos del arrendamiento debido a la reconstrucción de estructuras ceremoniales, al entierro de familiares, el juntar ramas verdes y hierbas y, como mencionado, por el tamaño de sus rebaños.

La prolongada presión aseguró que la mayoría de los dineh aceptaron en forma reacia los "generosos" beneficios de la reubicación y abandonaron su territorio dentro de la fecha límite del 31 de diciembre de 1996, que fue prolongada hasta el 31 de marzo de 1997. Muchos de ellos viven ahora fuera de la reserva navajo y se enfrentan a tremendos problemas sociales. Todos los que se negaron a firmar el AA de 1988, pierden todas las demandas de beneficios y minúsculos derechos. A pesar de esta condición, una pequeña fracción de familias dineh tradicionales todavía vive diseminada en su territorio. Su última esperanza de encontrar una solución justa por medios legales fue una "Audiencia de Justicia", celebrada en Fénix del 11 al 14 de febrero de 1997. Unos 150 representantes dineh asistieron a la audiencia y la mayoría de ellos presentaron testimonios escritos. Desgraciadamente, los procedimientos no fueron tan justos como el nombre podría indicar debido al claro favor que gozaban los que apoyaban el reasentamiento. Pero la última esperanza de justicia fue decepcionada cuando el Juez Caroll sentenció varias semanas más tardes que el AA es satisfactorio para las necesidades dineh.

Todas las familias dineh que todavía están en HPL, recibirán un aviso de 90 días emitido por la Oficina de la Comisión de Reubicación

Navajo y Hopi (ONHIR). Después de este período, ONHIR categorizará a los individuos y familias dineh en aquellos que se reubicarán "voluntariamente" y aquellos que no lo harán. El último grupo perderá todos sus derechos acerca de a donde trasladarse y en que tipo de casa.

Durante el período de conflicto, el Concejo de la Nación Navajo (NNC) no apoyó a los dineh de Big Mountain como era de desear. El 26 de marzo de 1997, NNC emitió una resolución que dice "...el NNC ya ha declarado que es un asunto de opción personal el firmar el AA o no". El NNC no participó en las negociaciones finales de PL 104-301.

Si ni las autoridades de los EE.UU. ni el HTC cambian de actitud, es de temer que Peabody Coal Company alcanzará sus objetivos gracias a sus deseosos colaboradores hopi. Pero como signo de esperanza y resistencia, se fundó una coalición de dineh y ambientalistas desde la fecha efectiva de AA. El dineh Kee Watchman fue elegido presidente.

El Mundo Indígena también informó sobre este tema en su edición de 1993-94 en el caso de Big Mountain.

El resto de los persistentes 2.000 dineh pueden ser apoyados con cartas de protestas dirigidas a:

Hopi Tribal Police Chief
Keith Sekacucu
Fax: +1 520 734 9939

Hopi Tribal Council
Chairman Ferrel Sekacucu
Fax: +1 520 734 6665

ttp://www.primenet.com/~dineh

Los apaches de San Carlos

Desde 1989, los Apaches de San Carlos, la Coalición por la Supervivencia Apache y los Apaches por la Preservación Cultural se han opuesto al Observatorio Internacional de Mount Graham (MGIO), una esta-

ción de telescopio en la cima de esta montaña que es sagrada para los *apaches*.

Mientras que la mayoría de los habitantes del mundo occidental está dispuesta a hablar abiertamente y razonadamente sobre temas religiosos, otros, como los apaches, no lo están. De acuerdo con su concepción de la religión, es conocida muy poca información por el público referente a su religión en general y especialmente la importancia religiosa de *"Dzil nchaa sian"*, el nombre apache del Mte. Graham. A pesar de su prohibición tradicionalmente ejercida, 15 curanderos confirmaron en una declaración común el lugar que ocupa la montaña en la religión apache.

La máxima autoridad sobre la religión y la cultura apache del siglo 20, Keith Basso, quien pudo usar las notas de campo de Greenville Goodwin (fallecido), probó en un estudio a gran escala que el Mte. Graham es una de las cuatro montañas sagradas de la religión apache. Goodwin era un muy capacitado etnógrafo que vivió en la Reserva San Carlos durante los años 30 y 40.

Muchos lugares sagrados y de sepultura están ubicados en Mte. Graham, el cual es considerado como un camino de las oraciones a los cielos. Por lo tanto, los curanderos todavía juntan hierbas y agua santa en el área de la montaña para prácticas curativas. Pero ahora, los apaches necesitan permiso de elementos externos para orar en su sitio sagrado. Muchos apaches preguntan si Moisés tuvo que pedir permiso para ir al Monte Sinaí y recibir los diez mandamientos.

Los ambientalistas consideran a la región en cuestión como una refugio para la vegetación del periodo glacial del suroeste de los EE.UU. y de una fauna única.

Los permisos para construir los dos telescopios ya existentes fueron otorgados evadiendo la Ley Nacional de Preservación Histórica (NHPA) y varias leyes de protección del medio ambiente (ver también El Mundo Indígena 1994-95 y 1995-96).

Los socios de la coalición contra la continua construcción de observatorios organizaron la Carrera Sagrada de Mount Graham el 11 de octubre de 1997. Los participantes apaches corrieron lado a lado con corredores indígenas de las naciones Navajo, Yaqui, Lakota, Klamath, Modoc, Ojibwe, Pima, Gila River y la tribu Yahoo de Snake así como

también corredores no-indígenas. El 13 de octubre de 1997, la Coalición Estudiantil para la Acción Ambiental (SEAC) manifestó en el campus de la Universidad de Arizona (UA) contra el proyecto.

Ya el 16 de agosto de 1996, el Concejo Asesor del Presidente sobre Preservación Histórica declaró a todo el proyecto del observatorio de Mount Graham en violación del NHPA debido al perjuicio que el proyecto causaba a la cultura apache y su vida religiosa. Incluso antes, el 16 de julio de 1996, el Presidente Clinton expresó su oposición a la profanación de la montaña sagrada: "...la Administración urge enérgicamente la revocación de las dos adiciones al proyecto de ley aprobadas en este Congreso que han hecho tanto mal al pueblo americano y a su medio ambiente (...) Segundo, la adición sobre Mount Graham debería ser revocada. Mount Graham es un sitio de importancia para los nativos americanos".

Ahora, después de muchas acciones de protestas, objeciones parlamentarias y series de casos de corte, la coalición de apaches tradicionales y ambientalistas obtuvo un éxito real. El 1 de noviembre de 1997, el Presidente Clinton vetó 10 millones de US$ destinados para dos proyectos astronómicos, incluyendo fondos que la Casa Blanca y la NASA dicen que estaban destinados para los telescopios de Mount Graham. Una parte importante hubiera ido para el Gran Telescopio Binocular (LB) de la Universidad de Arizona (UA), la pieza central de todo el proyecto.

Aunque se dieron razones técnicas para impedir estructuras dobles como el similar proyecto del Observatorio Keck que ya existe en Mauna Kea, Hawaii, el veto presidencial debería ser considerado como un primer paso en la dirección correcta. El Presidente de los Apaches de San Carlos, Raymond Stanley y el Director de Recursos Culturales Apaches de White Mountain, Ramon Riley, enviaron cartas al Presidente Clinton agradeciéndoles por su veto.

Por más información tomar contacto con:

The San Carlos Apache Tribe
San Carlos Avenue
San Carlos, Arizona 85550

EE.UU.
tel.: +1 (602) 475 2361
fax: +1 (602) 475 475-2567

The Apache Survival Coalition
P.O. Box 1237
San Carlos, Arizona 85550
EE.UU.

Apaches for Cultural Preservation
P.O. Box 650
Peridot, Arizona 85542
EE.UU.
fax: +1 (520) 475 2494

Shoshones Occidentales

> "La minería aurífera se realiza hoy en la puerta de mi casa. Me siento en mi dormitorio en la mañana y lo primero que veo a través de los árboles son equipos de perforación. No es una visión agradable. Los miro como la muerte para mi pueblo - la muerte de mis creencias. La tierra es sagrada. El agua es sagrada. El aire es sagrado. La minería aurífera está destruyendo estas costas. Está gastando millones de galones de agua. Algunas compañías la ponen en estanques. Algunas las echan simplemente en el Río Humboldt, y deja los valles para siempre. En los estanques quizá haya una posibilidad de que el agua encuentre finalmente su camino de vuelta a donde surgió. Pero no creo demasiado en eso."
>
> Carrie Dann, una anciana shoshone occidental y activista por los derechos territoriales indígenas y ambientalista en su artículo "Abriendo las venas de la tierra".

Estas pocas palabras de una mujer, quien siempre vivió en su territorio ancestral en Crescent Valley, Nevada, ya esbozan el problema quizá más actual de la Nación Shoshone Occidental: la *intrusión de las compañías mineras auríferas* en su territorio tradicional. Aunque tanto las compañias como el Buró de Administración de la Tierra (BLM) declaran que la tierra en cuestión es de dominio público, sus argumentos están basados en bases legales muy débiles ya que el BLM no ha sido

capaz de demostrar que los EE.UU. habían adquirido los títulos a la tierra de los shoshones occidentales.

Para poder comprender la complicada situación legal de los shoshones occidentales, se deben examinar los tratados y leyes, que fueron escritos entre la Revolución Americana y la década de 1860. La Ordenanza del Noroeste de 1787 establece, hablando sobre los indígenas de ese territorio, (que) "siempre será observada la máxima buena fe con respecto a los Indios, sus tierras y libertad nunca serán arrebatadas de ellos sin su consentimiento; y en su propiedad, derechos y libertad, nunca serán invadidos o disturbados, ..." (Actas del Congreso Continental, 32:340-41). Como el Concejo Nacional Shoshone Occidental se opone a la minería aurífera en el territorio tradicional de la nación, la "máxima buena fe" es difícil de ubicar.

Además, como la Ordenanza fue re-promulgada por el primer Congreso convocado bajo la actual Constitución de los EE.UU. y ha sido citada muchas veces en los tribunales, es todavía una ley orgánica básica de los EE.UU. Además, la "Ley para organizar el Territorio de Nevada" de 1861, fue redactada en forma coherente con la Ordenanza del Noroeste del 13 de julio de 1787 estableciendo: "... nada en esta ley será construido para menoscabar los derechos de personas o propiedad pertenecientes a los Indios en dicho territorio, en la medida que tales derechos permanezcan inextinguidos por tratado entre los EE.UU. y dichos Indios..." Pero ese tratado no existe ya que la Nación Shoshone Occidental nunca cedió o transfirió sus territorios a los EE.UU. Los shoshones occidentales tampoco perdieron su territorio basado en la "intrusión gradual" ya que tal extinción no es permisible ya que el Tratado de Ruby Valley de 1863 como es un tratado de "paz y amistad" y no de cesión, es todavía válido.

Además, tanto la Corte Federal de Distrito de los Estados Unidos para el Estado de Nevada y la Corte de Apelaciones del 9º Circuito Federal han afirmado que el tratado "está todavía en plena vigencia y efecto". De acuerdo con el Artículo 6, sección 2 de la Constitución de los Estados Unidos, "un tratado una vez acordado por los Estados Unidos, se convierte en la Suprema Ley de la Nación". De acuerdo con las normas comunes del derecho internacional, la única forma de anular el Tratado de Ruby Valley sería una simple declaración del

Congreso y de la Nación Shoshone Occidental, en tanto que son las partes involucradas. Pero tal declaración no existe.

Ninguno de los argumentos de las autoridades funciona para demostrar que los shoshones occidentales perdieron sus derechos a la libertad y el territorio basado en la "intrusión gradual". El BLM estableció la fecha de la alegada intrusión arbitrariamente en 1872. Pero los mapas muestran que en ese momento la población no-shoshone occidental era todavía una minoría. Además, el Tratado de Ruby Valley no otorga permiso a ceder títulos a la tierra bajo tal presunción.

Como los shoshones occidentales nunca renunciaron a su estatus de nación soberana y nunca cambiaron los términos del Tratado de Ruby Valley y el tema de la extinción no estaba necesariamente en cuestión durante el litigio ante la Comisión de Demandas Indias (ICC), el título legal a la tierra sigue siendo de la Nación Shoshone Occidental y su gobierno. El final otorgamiento de la ICC de US$ 26 millones el 12 de diciembre de 1979 ubicó al gobierno en un papel dual de ser a la vez un deudor sentenciado y un administrador de los shoshones occidentales; un papel que es contradictorio con el tratado mencionado. Finalmente, en este punto, los shoshones occidentales nunca aceptaron este pago.

Para intensificar la posición de los shoshones occidentales en defensa de sus derechos fuera del sistema judicial de los Estados Unidos, el Centro de Recursos del Derecho Indio presentó una queja de derechos humanos contra los Estados Unidos en la Comisión *Interamericana sobre Derechos Humanos* de la Organización de Estados Americanos (OEA) en nombre de Mary y Carrie Dann y la Familia Tradicional Dann. Se cree que esta denuncia es la primera presentada contra los EE.UU. en nombre de los indios americanos en la Comisión Interamericana.

Los puntos más importantes de la demanda son que las circunstancias de los procedimientos del ICC de 1951 eran fraudulentas y que las acciones del gobierno federal violan derechos humanos universalmente reconocidos como el derecho a un proceso justo, el derecho a la igualdad de protección ante la ley y el derecho a poseer propiedad. Esas acciones impiden a los Dann cazar y pastar ganado y las autoridades les han negado derechos constitucionales básicos.

La única respuesta del gobierno de los Estados Unidos ha sido una variedad de tácticas legales, que incluyen solicitar a la Comisión que declare el caso como inadmisible. La Comisión no tiene el poder de solucionar tales demandas, pero tiene la autoridad de escuchar e investigar las quejas referente a los derechos humanos contra las naciones miembros de la OEA. Se hará un informe público sólo si la Comisión decide que no se puede llegar a una solución amistosa. A través de su trabajo, la Comisión fortalece el derecho internacional de derechos humanos ya que el derecho nacional es frecuentemente discriminatorio e injusto.

Como se mencionó en El *Mundo Indígena 1996-97*, la compañía Oro Nevada Mining Company presentó un Aviso de Intención al BLM para realizar perforaciones exploratorias en busca de oro en Crescent Valley. De acuerdo con el comunicado de prensa de Oro Nevada del 10 de noviembre de 1997, la primera fase de exploración está completa. Como Oro Nevada alegó que las perforaciones cubrirían menos de cinco acres, sólo tenía que enviarse un aviso al BLM. A pesar de la comprensión del BLM, ocurrió una alteración de la superficie relacionada con la minería o la exploración sobre la tierra en cuestión. Es difícil encontrar otra palabra para calificar la apertura de un camino de 900 pies y otro de 3.000 en abril y mayo de 1997 para la perforación de 37 pozos. Es asombroso que los expertos de BLM no pudieron encontrar alteraciones de la superficie relacionadas con la minería o exploración. En realidad, tantos pozos, caminos abiertos y el necesario movimiento del equipo, el resto del equipamiento y camiones dejaron huellas y otras alteraciones que fácilmente exceden la actividad del "Nivel Notificado" de 5 acres. Pero como si fuera poco, el equipo de Oro Nevada encontró un géiser que lanzó agua caliente a 60 pies de altura. Se sabe que dueños de una propiedad que contiene un géiser, millas abajo en el valle, notaron que su flujo se redujo durante muchas horas.

Basado en los resultados, Oro Nevada está ahora buscando un socio para continuar perforando hoyos más profundos en torno al Rancho Dann y las fuentes de aguas termales de la cercanía. Las palabras de Carrie Dann al comienzo se referían al equipo de Oro Nevada en la misma vecindad de su hogar. El así llamado "Proyecto Ayúdame Aba-

jo" de Oro Nevada despierta la sospecha de que la compañía es sólo un caballo de Troya para la invasión final de corporaciones multinacionales mineras en el corazón del territorio de la Familia Tradicional Dann.

Una parte de la estrategia de Oro Nevada es aparentemente un plan para un cambio de tierras. Oro desea cambiar 8.000 acres de su propiedad privada en las montañas a cambio de las 22.000 acres de tierra shoshone occidental (llamadas de dominio público) en las llanuras. Esta tierra incluye muchos sitios culturales como el área ceremonial en la Sección 4 y el géiser en la Sección 10.

Si Oro Nevada sale adelante con sus planes de explotar los depósitos de oro microscópico, que no se puede ver a simple vista, podría ocurr-

Tuberías, Minas de Oro Cortez (Placer Dane), Crescent Valley, NU, mayo de 1997 (Foto: archivos de IWGIA)

ir más contaminación ambiental. La mala experiencia de Pacer Dome, otra compañía minera, el proyecto de entubamiento en Cortez, prue-

ban que la calidad a largo plazo del agua es cada vez peor debido a la contaminación por manganeso, antimonio y boro. La mina también desagua el área ya que el sistema de bombas y estanques no trabajan como se había previsto. Además, la evaporación será casi triplicada por los estanques, creando permanente pérdida de aguas subterráneas. El agua que satura el suelo en torno a algunas de las estructuras está ahogando la vegetación nativa en algunos lugares y está causando que se genere una costra de sal en la superficie de otras.

BLM en Elko ha tratado varias veces de reducir los rebaños de los shoshones occidentales mediante la confiscación, declarando que esto era necesario ya que los rebaños son demasiados grandes para el frágil medio ambiente. La vérdadera razón es destruir la base económica de la nación y su soberanía. Además, los pastores ganaderos tradicionales shoshones occidentales siempre se han negado a pagar a BLM por pastorear los animales en territorio shoshone occidental hasta que los Estados Unidos presenten documentación sobre cómo y cuándo los EE.UU. adquirieron las tierras shoshone occidentales. BLM Elko hizo un serio intento de confiscar el ganado de los shoshones occidentales en febrero de 1998. El objetivo era el ganado de los ciudadanos shoshones occidentales de las comunidades de Wells, South Fork, Odgers Ranch y Dann Ranch. Debido a las masivas protestas de los shoshones occidentales e internacionales, BLM Elko no comenzó la acción.

La Red a*nti-nuclear Shundahai* bajo la dirección del líder espiritual shoshone occidental, Corbin Harney, continúa con sus campañas de protesta contra el transporte de desechos nucleares peligrosos través de su tierra y las pruebas nucleares subcríticas. El año pasado, dos de estas pruebas fueron realizadas en el Sitio de Pruebas de Nevada (NTS). Este está ubicado dentro de los límites del territorio tradicional shoshone occidental de acuerdo al Tratado de Ruby Valley.

13 activistas Shundahai fueron sentenciados por un bloqueo de camino pacífico el 3 de abril de 1997. El Juez de Paz Tony Abbatangelo sentenció a cada uno de ellos a hacer una donación de 200 dólares a la Red Shundahai o cuarenta horas de servicio comunitario a la misma. Durante la causa, el juez declaró que "es de conocimiento común que los materiales radioactivos amenazan el agua, la tierra y los seres humanos".

Tanto la Red Shundahai como los shoshones occidentales se oponen vehementemente a las pruebas nucleares y al depósito de desechos nucleares en White Mesa o en cualquier otra parte, en tierras indígenas. Por más detalles sobre la "nación más bombardeada del mundo", ver también los documentos IWGIA 62 y 68 y el Boletín IWGIA 3/95.

Uno de los objetivos del Proyecto de Defensa de los Shoshones Occidentales (WSDP) es realizar proyectos sustentables. Los resultados actuales son la oficina y el establecimiento de empaquetamiento de paja, completamente distintos, que usan paneles solares y generadores eólicos para la producción de energía. Como el establecimiento está ubicado en las llamadas tierras públicas a una milla del rancho Dann, BLM Elko emitió un "Aviso de Intención" acusando a los shoshones occidentales y a los activistas simpatizantes de intrusión. De acuerdo con el aviso, el establecimiento deberá ser demolido dentro de un corto lapso de tiempo.

Finalmente, el Proyecto Educativo Piñón para la juventud shoshone occidental realizó grandes progresos. Se plantaron 450 árboles. Durante el curso de dos semanas, unos 20 shoshones occidentales de varias comunidades fueron educados acerca de la importancia del árbol del piñón como alimento tradicional de los shoshones y para la práctica religiosa y cultural de la nación.

Por más información tomar contacto con:

Western Shoshone Defense Project
P.O. Box 211106
Crescent Valley, Nevada 89821
EE.UU.
tel.: +1 (702) 468 0230
fax: +1 (702) 468 0237
e-mail: wsdp@igc.org
http://www.alphacdc.com/wsdp
http://www.teleport.com/~amt.planetpeace/wsd

Por favor enviar cartas de protesta a:

Bureau of Land Management
District Manager Helen Hankins
Elko District Office
3900 E. Idaho Street
EE.UU.
Fax: +1 (702) 753 0255

National BLM Director
Patrick Shea
1849 C St. NW
Washington DC 20240
EE.UU.

Leonard Peltier

Uno de los fundadores del Movimiento Indio Americano (AIM), Leonard Peltier, todavía está en prisión desde que fue sentenciado por el asesinato de dos agentes del FBI después de un intercambio de disparos en la Reserva de Pine Ridge en Dakota del Sur, en 1975.

Leonard Peltier ha estado en prisión desde 1977. Sus condiciones físicas empeoraron desde febrero de 1996 cuando fue operado de su mandíbula para corregir un antiguo problema. La operación no salió bien, ocurrieron complicaciones y se hicieron varios intentos para corregir los errores.

Después de esta experiencia que casi le costó la vida, Leonard Peltier se mantiene en su posición decidida de rechazar el tratamiento y la cirugía por el equipo médico nombrado por la prisión y exige un inmediato tratamiento por un especialista independiente. El Concejo Tribal Sioux Oglala apoya su demanda así como también la solicitud de una segunda opinión independiente, no-gubernamental, relativa a su inmediata condición de salud. Leonard Peltier y sus simpatizantes, así como también su familia, exigen este examen debido especialmente al hecho de que se le otorgó información errónea por el equipo nombrado por la prisión de que sufría de Hepatitis B. Se le explicó que esta enfermedad es intratable y lo mataría. Esta información errónea no puede calificarse de otra manera que de tortura psíquica.

Los simpatizantes de Leonard Peltier organizaron una acción de "lobby" de "golpear puertas" en el Congreso, hablando con los representantes electos.

Otra poderosa expresión de conciencia se hizo oír el 20 de junio, cuando el Ministro de Justicia habló en nombre de Leonard Peltier junto con sus abogados. Declaró, entre otras cosas, que: "creo que

Leonard Peltier. Prisión de Leavenworth, Leavenworth, Kansas, 1995 (Foto: Worthington, Toronto Sun)

puedo explicar más allá de cualquier duda seria que Leonard Peltier no ha cometido ningún tipo de crimen. Pero si hubiera sido culpable de disparar un arma que mató a un agente del FBI, fue en defensa, no sólo de su pueblo sino de la integridad de la humanidad contra la dominación y la explotación". Los funcionarios del gobierno mantienen a Peltier entre rejas, "—porque han puesto en juego su reputación en

ello", como dijo el Sr. Clark. Agregó que, para empezar, Leonard Peltier nunca debería haber sido encarcelado.

Aunque la investigación, comenzada en 1994, relativa a la investigación de las circunstancias de la extradición de Leonard Peltier de Canadá a los EE.UU. en 1976 ha finalizado, ni el ex Ministro de Justicia canadiense, ni el recién nombrado han tomado ninguna decisión.

Por más información tomar contacto con:

Leonard Peltier Defense Committee
43 Chandler Or Scarborough
Ontario M1G 1Z Canadá
tel./fax: +1 (414) 439-1893
e-mail: lpdccfd@web.net

Peltier Defense Committee
P.O. Box 583
Lawrence, Kansas 66044
ph: +1 (913) 842 5774
e-mail: lpdc@idir.net

http://www.unicom.net/peltier/index.htm

Se pueden enviar cartas de apoyo para solicitar una nueva audiencia de libertad condicional (ver Mundo Indígena 1996/97) a:

U.S. Parol Commission
5550 Friendship Blvd #420
Chevy Chase, MD 20815
EE.UU.
fax: +1 (301) 492 6941

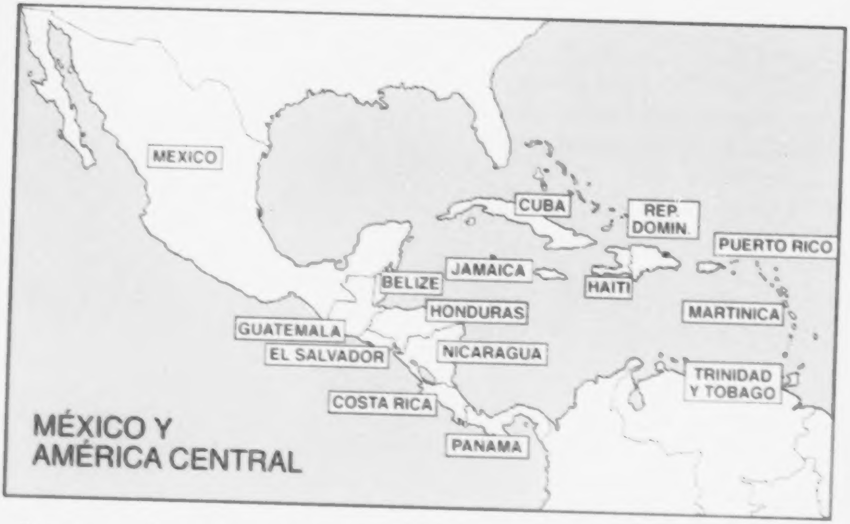
Se pueden enviar cartas de apoyo a la demanda por un tratamiento médico y religioso a:

Ms Kathleen Hawk
Bureau of Prisons
320 First Street N.W.

Washington, D.C. 20534
EE.UU.

Warden Page True
Leavenworth Federal Prison
P.O. Box 1000
Leavenworth, Kansas 66048
EE.UU.

Fuentes
Información abril 1997, Ministerio de Asuntos Indios y del Norte, Canadá
Leonard Peltier Defense Committee, Scarborough
Western Shoshone Defense Committee
Sundahai Network
Timbisha Shoshone Land Restoration Project
Apaches for Cultural Preservation
Blackfeet Support Group
Big Mountain Action Group
Friends of Nitassinan
Friends of the Innu, R.U.
Innu Nation
Association for the Support of North American Indians
Society for Threatened Peoples, Alemania



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MÉXICO Y AMÉRICA CENTRAL

MÉXICO

Chiapas sigue siendo el centro de atención del movimiento indígena de México. Desde el levantamiento zapatista, el 1 de enero de 1994, el conflicto ha pasado por un complicado proceso de alianzas, enfrentamientos y negociaciones. Los combates iniciales se sucedieron a acuerdos de paz, propuestas de reformas constitucionales para romperse nuevamente el diálogo. Ahora el gobierno mexicano parece decidido a aislar a los zapatistas, profundizar la división entre las comunidades indígenas y aumentar la presencia de tropas del Ejército Nacional. La situación es muy tensa y existe para muchos la sensación que los espacios de negociación se están agotando definitivamente.

Durante todo 1997 el tema de la pacificación de Chiapas se centró en la iniciativa de reforma constitucional elaborada por la COCOPA el 26 de noviembre de 1996. Esta propuesta era una iniciativa de reflejar jurídicamente los Acuerdos de San Andrés. La propuesta de la COCOPA fue aceptada por los zapatistas mientras que el gobierno realizó en un inicio 27 observaciones que posteriormente se redujeron a 4.

Los zapatistas insistieron que sólo aceptarían el proyecto presentado por COCOPA y ante el rechazo del gobierno en aceptarlo en su totalidad, se fue cerrando la posibilidad de que se llegara a un acuerdo distinto entre las partes, por lo que el gobierno del Presidente Zedillo presentó en marzo de 1998, su propia propuesta. Casi simultáneamente el partido conservador PAN, presenta una propuesta de reforma constitucional similar.

Si bien el gobierno insiste que la iniciativa cumple con los acuerdos de San Andrés y que los cambios al documento de la COCOPA son simplemente de redacción, hay cuestiones de fondo, como en lo relacionado a la territorialidad y autonomía, que han provocado el rechazo de la iniciativa por la oposición en el Parlamento, la Iglesia Católica, los zapatistas y varias organizaciones indígenas.

Miembros del Ejército Zapatista de Liberación Nacional (EZLN) (Foto: Heriberto Rodríguez).

La masacre de Acteal

El 22 de diciembre de 1997, 45 indígenas *txotxil* fueron asesinados en la localidad de Acteal, en los Altos de Chiapas. Se trataba de 21 mujeres, 9 hombres y 14 niños que se encontraban rezando en la iglesia de la comunidad, atemorizados por las constantes amenazas de grupos paramilitares simpatizantes del partido de gobierno, PRI. Según numerosos testimonios recogidos por organismos de derechos humanos, la matanza se había organizado con varios días de antelación. En ella participaron por lo menos 60 hombres fuertemente armados, quienes rodearon la iglesia y dispararon de diferentes ángulos. También hay

fuertes indicios que los atacantes, que también eran indígenas *mayas*, contaron con la ayuda del Presidente Municipal de la comunidad de Chenalho y la participación directa del Ejército Nacional que proporcionó las armas y el entrenamiento de los agresores.

En realidad la masacre no fue un hecho sorprendente. De hecho, la Comisión Nacional de Derechos Humanos había solicitado a las autoridades medidas cautelares para Chenalhó. Los funcionarios estatales restaron importancia a las primeras informaciones sobre los hechos y posteriormente las evidencias fueron alteradas o destruidas.

Con posterioridad a la masacre, el sacerdote francés Michel Chanteau, denunció en una misa los sucesos de Acteal y la falta de iniciativa de las autoridades para aclarar el caso. A pesar de sus 32 años de trabajo en Chiapas, el sacerdote fue inmediatamente expulsado de México, el mismo destino que siguieron otros 8 sacerdotes católicos en Chiapas en los últimos años.

Dentro de la estrategia de gobierno para aislar al movimiento zapatista e informar a su conveniencia, el gobierno mexicano viene intensificando en los últimos meses una campaña en los medios de difusión sobre la intromisión de extranjeros en asuntos que sólo competen a los mexicanos. Al mismo tiempo se establecieron fuertes limitaciones en la expedición de visas, el libre movimiento de observadores en el Estado de Chiapas y la intimidación directa por grupos paramilitares.

La iglesia católica también viene siendo el blanco de varias criticas sobre este punto. Por ejemplo el 17 de febrero de 1998, el Presidente del Congreso del Estado de Chiapas, Juan Carlos Bonifaz Trujillo, acusó desde el Parlamento al obispo Samuel Ruiz de „traición a la patria" por promover la intervención extranjera en los asuntos internos de México.

De hecho, la iglesia y varias ONGs y organizaciones indígenas solicitan la presencia constante de observadores internacionales. En reiteradas oportunidades, las organizaciones indígenas también expresaron el deseo de la presencia de la Cruz Roja Internacional y que se trabaje para que se constituya un relator de las Naciones Unidas para el caso de Chiapas.

El gobierno mexicano parece tener muy bien definida su estrategia para el conflicto de Chiapas, combinando el aislamiento, desgaste y división del frente zapatista, sin descartar una intervención militar en un futuro próximo.

La propuesta de Zedillo de introducir una reforma constitucional en materia de derechos indígenas, contraria a los acuerdos de San Andrés, aleja la posibilidad de una paz negociada.

GUATEMALA

El asunto más importante en la actual coyuntura para el movimiento indígena en Guatemala, después de decenios de guerra interna, es llegar a ocupar el espacio abierto con los Acuerdos de Paz firmados en diciembre de 1996, establecer políticas nacionales, concretizar compromisos contenidos en los Acuerdos en negociaciones con el Gobierno, y desarrollar las autoridades comunales y tradicionales, en el marco de la nación multiétnica, pluricultural y multilingüe.

Dentro de estos aspectos, el desarrollo de las comisiones establecidas entre el Gobierno y la instancia de los pueblos indígenas, COPMAGUA (Coordinación de Organizaciones del Pueblo Maya de Guatemala), se constituye en el elemento más destacado durante el año pasado. Entre el Gobierno (con SEPAZ, Secretaria de la Paz como entidad responsable) y COPMAGUA se han establecido las 5 comisiones paritarias acordadas en el acuerdo sobre identidad y derechos de los pueblos indígenas; en el seno de COPMAGUA se han establecido 8 Comisiones Nacionales Permanentes (CNP), de las cuales 5 funcionan con los mismos temas como las paritarias. Las comisiones nacionales permanentes se constituyen tanto en un elemento de interlocución flexible con el Gobierno, como en la instancia más representativa de los pueblos indígenas de Guatemala para formular lineamientos comunes; aunque la principal dificultad que enfrentan es que las comisiones, en cierto modo, funcionan sin suficiente coordinación entre sí.

En junio 1997 se formó un Consejo Político de Negociación como un intento de establecer la articulación del trabajo en las comisiones. En un intento de superar la distancia entre los niveles regionales y el nivel nacional, y lograr mayor articulación con organizaciones locales. COPMAGUA ha iniciado la instalación de Consejos Regionales, lo que todavía se encuentra en una fase inicial, con los primeros esfuerzos de los consejos en Cobán, Huehuertenango, Sololá, Petén y Quetzaltenango.

En una declaración de fin de año, COPMAGUA expresó que „funcionarios individuales de los distintos organismos y estructuras del Estado no han tenido la intención de consultar a las expresiones de los Pueblos Indígenas en lo relativo a "..medidas legislativas y administrativas susceptibles de afectar los pueblos *maya, garífuna* y *xinca..*", y cita como ejemplo la ley de Protección del Patrimonio Cultural de la Nación, y la integración y trabajos de la Comisión de Fortalecimiento de la Justicia. Pero califica de positivo el trabajo dentro las comisiones paritarias.

La Séptima Asamblea Magna de COPMAGUA se celebró el 29 de agosto 1997 en Chimaltenango, y resolvió respaldar la iniciativa de Reformas Constitucionales presentada con anterioridad por los pueblos indígenas, así como respaldar a los miembros de las distintas comisiones en la negociación con el gobierno de Guatemala.

Más puntualmente, los avances en la dinámica de implementación de los compromisos del AIDPI, se puede advertir en los trabajos y procesos de las comisiones, tanto paritarias como permanentes.

Comisión de Oficialización de los Idiomas Indígenas de Guatemala

La Comisión fue creada en base al Acuerdo Gubernativo 308-97, del 10 abril de 1997, e instalada el 21 de abril, en cumplimiento del Acuerdo sobre Identidad y Derechos de los Pueblos Indígenas, para estudiar y presentar al Gobierno modalidades de oficialización de los idiomas indígenas, teniendo en cuenta criterios lingüísticos y territoriales.

Esta Comisión ha sido la primera en terminar su trabajo, y entregó su informe a SEPAZ en marzo de 1998. Su informe contiene los ante-

cedentes históricos de los idiomas, un marco referencial que incluye el análisis de la situación en otros paises, una información actualizada sobre la situación y condiciones de cada uno de los idiomas, así como la propuesta de modalidades de oficialización de los idiomas con una clasificación a nivel de lenguas territoriales, habladas por más de 300.000 personas y una extensión de 20 o más municipios (Q'eqchi', K'iche', Mam y Kaqchikel), comunitarias, con menos de 300.000 personas y menos de 20 municipios; y lenguas especiales, que se encuentran en peligro de extinción. Propone una estrategia en etapas, durante la primera con servicios en distintos idiomas por medio de traductores y formación de recursos humanos en materia de lenguas indigenas.

En base a ésta propuesta, el Gobierno tendrá que proponer una reforma del artículo 143 de la Constitución para que otros idiomas, al igual que español, sean oficiales, asimismo como considerar cómo poner en práctica las propuestas concretas.

Comisión Paritaria de Reforma Educativa

Tiene como objetivo diseñar una propuesta para la educación para que ésta contribuya a la formación y realización del proyecto de una nación Pluriétnica, Pluricultural y Multilingüe en una sociedad justa y solidaria, fortaleciendo la unidad nacional. La comisión tiene que redefinir el sistema educativo, definir ejes y legislación normativa para establecer institucionalmente la educación indigena.

Su propuesta consensuada tiene que servir como insumo para la propuesta nacional de una reforma educativa que tendrá que ser elaborada por el Ministerio de Educación en base del Acuerdo Socioeconómico. Con el fin de asesorar el Ministerio se formó el 29 de octubre de 1997 una Comisión Consultiva de Reforma Educativa con amplia representación de instituciones educativas, religiosas y académicas. Sin embargo, por no haber nombrado más que dos representantes indigenas para esta Comisión Consultiva, COPMAGUA retiró el 3 de noviembre sus miembros de la Comisión PARITARIA hasta que SEPAZ el 16 de diciembre aceptó nombrar 5 delegados indigenas adicionales.

La Comisión Paritaria ha recibido en sus consultas 31 propuestas diferentes para su trabajo, y ha participado en una serie de foros a

nivel nacional para discutir con entidades específicas. Está elaborando una propuesta que intenta incluir una descentralización municipal en la legislación educativa, pero todavía no ha logrado terminar sus trabajos.

Comisión de Lugares Sagrados

Esta Comisión fue conformada en abril de 1997 con el mandato de elaborar reglamentación para uso, preservación y administración de lugares sagrados.

En una primera definición de lugares sagrados, la Comisión ha concluido que estos son los espacios vitales para el ejercicio de la espiritualidad en donde se establece la relación integradora con el cosmos, la naturaleza y los ancestros.

Antiguas ciudades mayas y xincas; lugares con altares, cerros, volcanes, montañas y peñas (grandes piedras); algunos cementerios; cuevas, cavernas, grutas y siguanes; nacimientos de agua, lagos lagunas y pozos; algunos recodos; y a nivel de los *garífuna*: litorales de la costa atlántica y temascales (aguas termales). Estas formulaciones amplias reflejan ciertas posiciones maximalistas, y han llevado a que se empantanen las discusiones entre los delegados indígenas y los del gobierno.

Una complicación inicial del trabajo fue la aprobación de Ley de Patrimonio Nacional en 1997, que define un régimen de preservación del patrimonio nacional. Esta ley fue aprobada sin ninguna consulta con sectores indígenas, y la Comisión fue ignorada específicamente, y ha significado una inseguridad en el mandato de trabajo de la misma, por lo que sectores indígenas han pedido la derogación de esta Ley.

Comisión Paritaria de Derechos Relativos a la Tierra de los Pueblos Indígenas

Al establecer la Comisión se logró -por medio del Acuerdo Gubernamental- incluir en el mandato de la Comisión no sólo tierras comunales, sino la problemática general de tierras de los pueblos indígenas. La Comisión intenta definir e impulsar una política de transformación y desarrollo rural con proyectos sostenibles y sustentables, y por lo

tanto espera tener incidencia en asuntos como fondos de tierra, acceso a recursos y reservas nacionales y estructuras de apoyo a la agricultura nacional.

La Comisión ha logrado acuerdos con el Gobiernos para que éste tome en consideración sus propuestas. Aunque han habido algunos conflictos con el gobierno, por la existencia de anteproyectos de ley de tierra que no habían sido consultados, actualmente los trabajos han ido avanzando con cautela, pero con un buen clima para la negociación entre delegados indígenas y gubernamentales.

Comisión Paritaria de Reforma y Participación

El mandato de la Comisión fue la elaboración de propuestas de contenidos de las reformas legales e institucionales que garanticen y aseguren la participación plena de los pueblos indígenas a todo nivel.

Sin embargo, todavía no ha habido muchos avances; no han logrado identificar específicamente su trabajo y los temas a tratar, y tanto los delegados indígenas como los del gobierno han tenido un menor grado de capacidad de negociación. Los temas centrales de la representación de los derechos indígenas se enfrentan a una coyuntura desfavorable, por entrar el país en una etapa electoral.

Las comisiones de COPMAGUA

COPMAGUA ha instalado 8 comisiones; 5 funcionan paralelamente con las comisiones conformadas en conjunto con el Gobierno en función del apoyo-alimentación a los representantes de COPMAGUA en tales comisiones, y su trabajo comprende la elaboración de un consenso sobre los temas tratados. La intención de estas 5 comisiones, al terminar el trabajo en las comisiones paritarias, es establecerse como un ente de seguimiento de los compromisos alcanzados y proponer mecanismos concretos de implementación (para el caso de Oficialización de Idiomas existe la Academia de Lenguas Mayas; en el caso de los otros temas, no hay aun instancias institucionales de carácter no gubernamental para desempeñar las tareas de seguimiento).

Comisión de Reformas Constitucionales

Esta Comisión elaboró una propuesta de reformas a la Constitución, la cual fue presentada al Congreso en agosto de 1997 como iniciativa de Ley, respaldada por 5.000 firmas. Esta propuesta está actualmente dentro los temas tratados por una Comisión Multipartidaria del congreso de la república, instancia que reúne a representantes de todos los partidos, para discutir una serie de asuntos políticos de importancia actual, entre ellos, otras propuestas de reformas constitucionales.

Comisión de Derechos de la Mujer Indígena

Las tareas que COPMAGUA ha definido para esta comisión están derivadas de diferentes partes de los Acuerdos de Paz que incluye puntos como: promover legislación relacionada al acoso sexual, considerando tal hecho como agravante en caso de mujeres indígenas; crear una Defensoría de la Mujer Indígena, incluyendo servicios de asesoría social; promover una divulgación del convenio sobre eliminación de todas formas de discriminación contra la mujer; propiciar la participación de la mujer en igualdad de condiciones en lo relativo a proyectos de desarrollo, educación, créditos, etc.

La comisión ha elaborado un anteproyecto de ley para la creación de la defensoría de la mujer indígena, en la que se propone una institución autónoma del Estado integrada sólo por indígenas y ubicada a nivel comunal, incluyendo una defensora para educación y concientización de derechos y un trabajo de defensa de los derechos. Entre las tareas se incluye: recibir denuncias sobre violaciones de derechos de la mujer indígena, canalizar a instancias correspondientes los casos que recibe, dar seguimiento a casos, dar asesoría y asistencia jurídica.

La Comisión ha estado participando en el Foro Nacional de la Mujer. Tal Foro fue formado en base a los acuerdos de paz para buscar espacios de formulación de propuestas que permitan a las mujeres alcanzar una equidad y una verdadera participación en todos los niveles. Una comisión coordinadora, adscrita a SEPAZ y con amplia participación, trabajó en el transcurso de 1997 para preparar el trabajo en conjunto con una serie de organizaciones con las cuales se tiene que trabajar.

Como resultado de este trabajo preparatorio se celebró la Primera Asamblea en diciembre de 1997 con la participación de 224 delegadas (de ellas más de la mitad indígenas).

El Foro tiene como mandato elaborar políticas y propuestas de equidad de género: tiene que discutir y proponer una estrategia nacional para el cumplimiento de los diversos aspectos vinculados a la mujer contenidos en los Acuerdos de Paz.

La asamblea definió cuatro ejes de trabajo: desarrollo cívico y político, desarrollo social y cultural, desarrollo económico, creación de nuevas leyes y reformas legislativas.

Comisión de Derecho Indígena

Esta comisión no ha logrado definir con claridad su área de trabajo. El reconocimiento del derecho indígena y de las autoridades comunitarias es uno de los temas más delicados del AIDPI, por su incidencia en la reformulación de la institucionalidad del estado guatemalteco. Las propuestas sobre derechos indígenas son, además, difíciles de discutir con otros sectores de la sociedad por el clientelismo de los partidos, para quienes los líderes indígenas constituyen "enlaces" entre el sistema occidental y los pueblos indígenas.

En el marco de dar cumplimiento a este compromiso, el gobierno impulsó la instalación de juzgados de paz comunitarios, instalándose en cinco municipios a nivel piloto, con el objetivo de aplicar "los usos y costumbres de las diversas comunidades para la solución de conflictos" locales. La iniciativa, desafortunadamente, no fue consultada con el sector indígena lo que conlleva un peligro de debilitamiento de las autoridades tradicionales; pero frente a la multitud de problemas de justicia, la iniciativa ofrece posibilidades de resolver problemas locales más ágilmente, especialmente si se logra a nivel local establecer las relaciones con autoridades tradicionales.

HONDURAS

En el corazón del territorio *tawahka*, región conocida como Pita, se pretende instalar uno de los proyectos hidroeléctricos más ambiciosos de América Central a cargo de la empresa Panda Patuca Power Com-

pany, de capital norteamericano. Esta represa, denominada Patuca II, es vista por el gobierno nacional como un importante aporte a la demanda energética nacional y abre incluso la posibilidad de exportar energía a los países vecinos.

El proyecto tendrá una capacidad de 270 MW y generaría unos 1.3 Gwh anuales. La represa, que ocuparía un área de 45 kms cuadrados, estaría a sólo 12 kilómetros de las comunidades tawahkas.

El pueblo tawahka está constituido por 950 personas, asentados en 5 comunidades en las riveras del Río Patuca, en la Moskitia.

Los indígenas temen que este proyecto tenga consecuencias ecológicas irreversibles sobre un área de muy alta diversidad biológica, especialmente el área de la Reserva de la Biosfera Tawahka Asangni.

El proyecto provocaría una importante alteración en la vida de las comunidades indígenas y afectaría negativamente la base de subsistencia tawahka.

Hasta el momento el proceso de consulta, a cargo de la empresa Bioconsult, para la construcción de la represa, no se ha llevado adelante con la transparencia necesaria y mientras tanto, las organizaciones tawahkas continúan su lucha para la defensa de su territorio.

NICARAGUA

Nicaragua oriental: empeora la situación en la Mosquitia

La colonización europea de los últimos 500 años tuvo como resultado un cambio extendido, coercitivo y rápido. Hubo algunas excepciones. A diferencia de la mayor parte de América Latina, gran parte de la costa caribeña de América Central nunca fue realmente colonizada. Lo que hoy constituye Nicaragua oriental se convirtió en un protectorado británico hasta fines del 1800. El protectorado de la Mosquitia fue incorporado tarde en la Nicaragua dominada por los españoles. El tratado de Managua de 1860 entre Nicaragua y Gran Bretaña otorgó una amplia autonomía a las tierras bajas orientales. Nicaragua acordó otorgar autonomía a los indígenas y negros, pero rompió sus promesas. La situación de la cual somos testigos hoy es resultado de la violación del Tratado de Managua después de la incorporación unilateral

de la Mosquitia al estado nicaragüense en 1894 - sin el consentimiento de los pueblos indígenas y negros.

Casi 100 años más tarde, los costeños recibirían finalmente la autonomía como una concesión hecha por el gobierno Sandinista para poner fin a seis años de guerra contra la guerrilla indígena (1981-87). Entre las medidas para beneficiar a los pueblos y comunidades indígenas se encontraban previsiones para su base territorial, respeto por sus culturas y lenguas (incluyendo medios de difusión propios y acceso a la educación superior), y una acción afirmativa. La división de las dos regiones autónomas (concebida por el ex gobierno del FSLN) impidió el control mestizo en Nicaragua oriental y condujo a una región autónoma dominada por los indígenas en el noreste de Nicaragua (RAAN) y de influencia "creole" en la región autónoma suroriental (RAAS).

Los indígenas *miskitu* constituyen la mayoría de la población en RAAN, a pesar de representar una pequeña minoría (del 3%) en toda Nicaragua. Los indígenas se concentran a lo largo del Wangki y la costa norte, mientras que están dispersos a lo largo de otros ríos, lagunas y la costa sur, entremezclados con otras comunidades. La región tiene importantes recursos como el oro (explotado en varias minas), bosques y ricos pesqueros.

Hoy sabemos que Nicaragua oriental perdió la oportunidad de desarrollarse en una de las pocas experiencias avanzadas de autogestión y autonomía en América. El marco legal establecido por el ex régimen del FSLN habría permitido tal desarrollo - siempre y cuando hubiera la necesaria voluntad política. La autonomía regional fue combinada con el reconocimiento del área de asentamiento indígena con su base territorial. Por otro lado, fue problemático el no-reconocimiento de las autoridades e instituciones políticas tradicionales indígenas por la ley de autonomía 28. Sin embargo, esto ha contribuido hasta el momento a aumentar su respetabilidad en la Mosquitia, en la medida en que se muestra el papel cada vez más importante del Concejo de Ancianos Indígenas.

La autonomía regional pluriétnica como solución a largo plazo para reconocer los derechos históricos indígenas en las tierras bajas de Nicaragua oriental parecía adecuada a las condiciones locales ya que los costeños son una comunidad multiétnica constituida por seis grupos

étnicos en la mitad del territorio del estado (sumando un 10% de la población total). El reconocimiento de derechos aborígenes inherentes, como los derechos colectivos y la propiedad comunal de los pueblos indígenas de Nicaragua se transformaron en una ley constitucional en 1987. Probó ser un limitado intento de romper eventualmente con el eurocentrismo que caracteriza a los sistemas legales latinoamericanos. Irónicamente, estos logros sólo pudieron ser defendidos a partir de 1990 por una alianza de los antiguos adversarios, los Sandinistas y el movimiento indígena.

Los efectos del conflicto armado etno-nacionalista todavía se sienten fuertemente en RAAN. Las víctimas de la guerra fueron en su mayoría civiles y se hizo gran daño a la economía de Nicaragua oriental. La otrora próspera región está ahora entre las más subdesarrolladas. El estatus autónomo de la región no impidió que casi todos los recursos económicos de la región fueran mantenidos bajo el control del gobierno central, que siguiera el saqueo masivo y que las riquezas fueran vendidas baratas - sin ningún efecto para los costeños. Las regiones orientales siguieron empobreciéndose. Los sucesivos gobiernos autónomos de ambas regiones no lograron detener la política de liquidación y subdesarrollo de Managua. Por el contrario, algunos gobernadores hicieron lo mismo que la clase política de Managua: ¡trataron de enriquecerse rápidamente!

La reglamentación de la ley de autonomía tenía la más alta prioridad para todas las partes que defendían la autonomía, para aclarar las competencias de los organismos centrales y regionales. Pero todos los esfuerzos fueron inconducentes. Las regiones autónomas necesitaban urgentemente sus propios instrumentos económicos (presupuesto propio, impuestos propios, beneficios de los recursos). El principal elemento de la discordia es el control de los ricos recursos naturales de la costa. Los sucesivos gobiernos centrales simplemente no implementaron las previsiones del estatuto para la Costa Caribeña. La ex presidenta Barrios de Chamorro olvidó rápidamente sus promesas electorales de 1990 de respetar la autonomía.

El actual presidente Alemán -quien asumió el poder en enero de 1997- es un líder populista de derecha y fue acusado de restaurar un régimen de tipo Somoza. Desgraciadamente, una fracción del movi-

miento indígena hizo una alianza con el partido de Alemán para las elecciones regionales celebradas en 1994. Esta alianza profundizó las divisiones entre las tres principales fracciones indígenas. Es difícil que las alianzas políticas impías produzcan concesiones sustentables y sustanciales. En este caso tiene que ver con la verdadera naturaleza de los socios de la alianza, ferozmente opuestos al núcleo central de las demandas indígenas.

Cansados de 10 años de falsas promesas, confusión política y negligencia total, los indígenas de Nicaragua tomaron la iniciativa. Refiriéndose a la violación del tratado de Managua y a la decidida no-implementación de la ley de autonomía, el Concejo de Ancianos Indígenas declaró a Nicaragua oriental como un territorio soberano en abril de 1998. Los choques armados se reiniciaron en la Mosquitia. Los combates entre el ejército nicaragüense y las guerrillas indígenas causaron las primeras bajas en mayo. Si no se puede encontrar una solución justa, entonces la amenaza de una nueva guerra se hace seria.

¿Qué se puede hacer para impedir una nueva guerra? ¿Cómo desbloquear la deplorable situación de un proyecto de autonomía interrumpido? Las previsiones del estatuto de autonomía de 1987 para la costa caribeña deberían ser implementadas plenamente y sin más demora. Las reglamentaciones deberían clarificar las competencias de los organismos centrales y regionales. Las regiones autónomas necesitan desarrollar sus propios instrumentos y estrategias económicas adecuadas. Como principio, el movimiento indígena debería mantenerse fuera de la politiquería de Managua. No tiene nada para ganar allí. Los indígenas y los afroamericanos deben concentrarse en sus propios planes para una futura autonomía a plena escala - en vez de involucrarse en obtusas políticas partidarias.

Todas las fuerzas que apoyan la autonomía deberían cooperar para producir resultados que sean mutuamente beneficiosos. Primero tiene que lograrse un firme acuerdo sobre los objetivos y la dirección de la lucha entre aquellos que defienden la autonomía. Luego todas las fuerzas deberán presionar por el cambio. La unidad es la condición clave para exigir exitosamente los derechos legítimos. Los costeños de Nicaragua oriental necesitan una solución justa, la cual finalmente vaya a satisfacer sus demandas. La lucha por la autonomía tiene que ser

ubicada en una base sólida para que sea exitosa. Los indígenas y los negros sólo pueden ganar si no se quedan esperando a "Managua", sino que comienzan a fortalecerse y responsabilizarse ellos mismos.

COSTA RICA

El período de 1997 y principios de 1998 se caracterizó, para los pueblos indígenas de Costa Rica (35.000 a 40.000 personas, 1% de la población nacional), por la consolidación organizativa, la cual se puso a prueba a raíz de un proyecto de ley que fue presentado a la Asamblea Legislativa. De la dinámica generada y las circunstancias, surgió una organización indígena nacional que promete ser verdaderamente representativa y que marca un nuevo rumbo de esperanzas para el movimiento indígena en este país.

Para su ejecución, el proyecto PAPICA (Proyecto de Apoyo a los Pueblos Indígenas de Centro América), financiado por la Unión Europea, ha fomentado la creación de organizaciones indígenas nacionales en la región, capaces de canalizar los fondos respectivos. Estas organizaciones, conocidas como "Mesas Nacionales", han evolucionado de forma diferente en cada país, pues en algunos, como Panamá y Honduras, organizaciones ya existentes han funcionado como las respectivas Mesas Nacionales, mientras que en otros han tenido que crearse desde la raíz.

En Costa Rica, el proceso de PAPICA ha llevado a la creación de la Asociación Tekra o "Mesa Nacional Indígena de Costa Rica", con representación de todas las comunidades indígenas del país. Ante el derrumbe o la decadencia de otras organizaciones indígenas nacionales (Asociación Sejektö, Asociación de Pueblos Indios –API), la Asociación Tekra ha venido a llenar un vacío real y se ha convertido en un vital mecanismo de enlace para los pueblos indígenas costarricenses, en especial debido a importantes iniciativas legales que se han suscitado durante los últimos años. Si bien ha sido también un proceso iniciado en años anteriores, 1997 ha sido el año que ha permitido a la Asociación Tekra la definición de un verdadero y renovado movimiento indígena nacional.

486

Todo parte de los principios de los años 90, con la consolidación de las protestas de los *ngobes*, en el sur del país, para que fueran considerados como costarricense. El movimiento espontáneo surgido entonces, primero por unos pocos ngobes de la zona sur del país, y luego por muchos, de otros pueblos indígenas inclusive, logró su objetivo un año después, con la "Ley de Cedulación Indígena", que reconoció la ciudadanía de los ngobes y de todos los indígenas que aún no estaban inscritos en el Registro Civil.

En 1992, la adopción y ratificación del Convenio 169 de la OIT en 1992, favoreció la consolidación del movimiento indígena. Desde 1990, el caso de la cedulación indígena fue sometido ante la Sala Constitucional de la Corte Suprema de Justicia y un histórico fallo que invocó al Convenio como norma fundamental para esta materia, consolidó la victoria política de 1991. Es indudable que la adopción y ratificación del Convenio 169, generó nuevas expectativas en el movimiento indígena, que se convenció, con gran claridad, de la importancia que revestía la lucha no sólo en las calles, sino también en los tribunales y en los pasillos del Congreso. Las expectativas resultaron así en diversas solicitudes al Estado para actualizar la legislación nacional a fin de adecuarla a las demandas indígenas, demandas que se formulaban al amparo de los derechos que estableció el Convenio 169 y que, en el ordenamiento jurídico costarricense, tiene fuerza supralegal según la Constitución de la República.

Contrario a la suerte que sufrió el Convenio 107 de la OIT, que en 30 años sólo fue invocado unas pocas veces por el movimiento indígena y una sola vez por la jurisprudencia, el Convenio 169 se ha convertido en un aliciente extraordinario para la causa indígena en Costa Rica.

Es así como en 1995 se presentó ante la Asamblea Legislativa un proyecto de ley intitulado "Ley de Desarrollo Autónomo", cuya defensa involucró profundamente a la Asociación Tekra. Este proyecto de ley contemplaba una profunda actualización de la "Ley Indígena" de 1977, en particular en el campo de los derechos territoriales. La vieja ley había dado rango de ley a las "Reservas Indígenas", definiéndolas, además, como inembargables e imprescriptibles. Sin embargo, durante sus 20 años de vigencia, la Ley Indígena casi no fue aplicada,

porque no identificó los mecanismos adecuados para realizar desalojos (en el caso de usurpaciones). Indudablemente, también la desaplicación legal tuvo relación, por lo menos en algunas regiones de Costa Rica, como Buenos Aires, con un clima adverso contra los indígenas en las instancias de poder local. El proyecto de ley buscaba igualmente agrupar, en una sola ley, importantes reformas a otras leyes nacionales en los campos de la salud, la educación, la administración de los recursos naturales, la justicia, entre otros, de forma de englobar el ordenamiento jurídico costarricense y hacerlo más compatible con el texto del Convenio 169.

El proyecto "Ley de Desarrollo Autónomo", respondiendo a la norma del Convenio 169 que establece la obligación del Estado de consultar las iniciativas que impulse y que afecten a los pueblos indígenas, se tuvo que llevar a debate en las mismas comunidades. La Asamblea Legislativa organizó, con el apoyo de la Asociación Tekra, la consulta en dos etapas. En la primera (julio de 1997), se realizaron 40 talleres en diferentes comunidades indígenas del país para recoger las apreciaciones sobre el texto, que fue repartido con anterioridad y explicado en detalle. En esta etapa también se designaron democráticamente a los delegados para la segunda etapa, que consistió en el "Foro Nacional Indígena". El Foro se realizó en agosto de 1997 y consistió en el trabajo de los delegados electos en las comunidades, durante una semana, en la Asamblea Legislativa. Los delegados trabajaron como diputados, con los reglamentos de la Asamblea Legislativa. Se realizaron trabajos de comisión y plenarias, sometiendo a debate mociones para variar la redacción de los artículos, para eliminar otros de la propuesta o para incluir nuevos.

El resultado de todo el proceso, que se puede calificar de un auténtico y novedoso plebiscito, fue un nuevo proyecto de ley que estableció un régimen novedoso y viable de autonomía territorial. Se busca no sólo fomentar un efectivo control territorial por parte de las comunidades indígenas, sino también la recuperación de tierras usurpadas, el reconocimiento de la medicina indígena, el reconocimiento de la educación bilingüe pluricultural, el reconocimiento de la jurisdicción interna para la resolución de conflictos con base en el Derecho Indígena, así como otras garantías. El proyecto también contempla el cierre

definitivo de la Comisión Nacional de Asuntos Indígenas, oficina semi-autónoma del Estado, que ha sido profundamente cuestionada por sus prácticas paternalistas y por la manipulación interesada de las Asociaciones de Desarrollo Indígenas (gobiernos locales en los territorios indígenas).

El texto nuevo que resultó del Foro Indígena Nacional fue acogido por la Comisión Legislativa de Asuntos Sociales y después de algunas modificaciones, fundamentalmente de forma, se votó con dictamen favorable y fue enviado al Plenario Legislativo. El primer debate (de tres requeridos para promulgar una ley), el día 23 de abril de 1998, acogió por mayoría el nuevo proyecto de ley. El segundo debate, el día 29 del mismo mes, resolvió enviarlo a consulta preceptiva de constitucionalidad ante la Sala Constitucional de la Corte Suprema de Justicia.

Desgraciadamente ya el 1º de mayo cambió el Poder Legislativo (nuevo gobierno) y se inició un nuevo período parlamentario, con otros diputados. Habrá que esperar no sólo el fallo de la Sala Constitucional, sino también -en caso de que el fallo sea positivo- ver si los nuevos diputados acogen de nuevo el proyecto en el trámite en que quedó y no lo devuelven a estudio de comisiones, pues sería prácticamente anular las posibilidades de que se vuelva a discutir.

A pesar de la incertidumbre, es importante decir que la Asociación Tekra salió de todo este proceso sumamente fortalecida y consolidada, pues tuvo un rol protagónico en la organización de la consulta legislativa, en la convocatoria y en la discusión del proyecto de ley. También es importante señalar que el proyecto constituye, sin duda alguna, el primer documento que realmente plasma por escrito, en forma clara y consensuada con las bases, un proyecto político indígena y una demanda estructurada de los derechos fundamentales para el desarrollo auténtico de las culturas indígenas. Ello refleja la madurez que ha alcanzado el movimiento indígena en el país.

PANAMÁ

Con un 10% de población indígena, Panamá sigue siendo uno de los países de América Latina donde el gobierno no se cansa de reiterar la

supuesta amplia política indigenista y la convivencia pacífica. Pero en realidad es un tema tabú hablar del Convenio 169 de la OIT o el tema de la Ley General de Ambiente. Esa última contenía en un anteproyecto, un capítulo entero sobre pueblos indígenas, el que fue posteriormente borrado, quedando apenas dos artículos dispersos relacionados a las comunidades indígenas. Fue el mismo Presidente de la República quién vetó el anteproyecto alegando que iba en contra de la empresa privada y de las inversiones extranjeras que podrían llegar a Panamá. De cualquier forma, el anteproyecto de ley acaba de regresar a la Asamblea Legislativa y no se sabe si las exigencias indígenas serán tomadas en cuenta, de todas maneras continúa el cabildeo de representantes indígenas en el Parlamento.

Después de la creación de la Comarca Ngobe-Buglé mediante la Ley 10 del 7 de marzo de 1997, se agudizó la división entre los mismos indígenas. Un gran sector de esta comunidad ha manifestado su disgusto manteniendo la postura que esta ley fue impuesta por el gobierno nacional y que en vez de favorecer a los *ngobes*, apoya más a las empresas mineras que quieren invertir en el área. Por otra parte, otro sector ha mantenido su apoyo a la nueva ley y sostiene que es mejor tener el territorio ahora con sus limitaciones, que esperar muchos años más.

En Cerro Colorado, territorio *ngobe-buglé* ha decrecido la extracción de cobre, debido a la brusca caída del precio de este metal y se cree que recién en el 2000 puedan repuntar los precios. Mientras tanto, la empresa Panacobre que opera en el área tiene el tiempo necesario para convencer a algunos dirigentes que apoyen la actividad minera, aprovechando las divisiones internas. Asimismo se estima que se incrementará la presión indígena para neutralizar el avance de la explotación de minerales en la región.

En noviembre de 1997, un pueblo indígena olvidado hizo oír nuevamente su voz a nivel nacional. Se trata de los *bokotas* que, en una histórica reunión celebrada el 30 de noviembre en Santa Catalina, provincia de Bocas del Toro, exigieron el respeto de sus derechos y la creación de una comarca propia antes de finalizar el presente siglo.

Por su parte los *emberas-wounan* de la provincia de Darién, exigen que se incorporen a su territorio creado por ley en 1983 a varias de sus

490

comunidades que quedaron fuera de sus límites. Los emberas-wounan sostienen que estas comunidades están particularmente amenazadas por la presión de los campesinos no-indígenas que vienen avanzando peligrosamente sobre sus tierras para quemarlas y convertirlas a la ganadería.

Los *kunas*, por su parte, han mantenido una dura lucha contra los planes de instalar una base naval norteamericana en territorio indígena, con el pretexto de combatir el narcotráfico colombiano. Finalmente, los gobiernos de Panamá y Estados Unidos tuvieron que desistir de sus intenciones sin antes de calificar de „colaboradores de narcotraficantes" a los que defienden la autonomía indígena, tomando represalias muy sutiles como el suspender algunos proyectos en favor del pueblo kuna (para mayor información ver *Asuntos Indígenas 2/97*).

Panamá: Los kuna están todavía trabajando en la demarcación de sus territorios (Foto: Alejandro Parellada).

La máxima autoridad kuna, su Congreso General suspendió en forma unilateral el convenio firmado con el Instituto Smithsonian de Investigaciones Tropicales (STRI), al negarse este último a negociar con los kunas la exigencia de un aumento en el pago del uso de sus instala-

ciones en territorio indígena. El STRI había trabajado con los kunas por más de 20 años con un laboratorio marino por el que han pasado biólogos de todo el mundo. Ni el gobierno ni el STRI imaginaron la reacción kuna y se esperan represalias por parte del gobierno.

Por otro lado, en los primeros meses de 1998 se han confirmado nuevas invasiones de colonos no indígenas a Kuna Yala, lo cual ha puesto en alerta a todas las organizaciones kunas y se han reunido para trabajar en las áreas conflictivas para expulsar a los invasores y delimitar la comarca.

También en Kuna Yala se celebró el Segundo Foro Indígena sobre el Foro Permanente de las Naciones Unidas con representantes indígenas de varios países de América Latina. El motivo del evento ha sido el de profundizar la discusión sobre los alcances del Foro Permanente y los mecanismos de participación indígena.

Finalmente, 1998 es año electoral en Panamá y los partidos políticos tradicionales comienzan a llegar a las comunidades indígenas con las promesas de siempre.

Paises tratadas en ésta publicación: Surinam, Venezuela, Colombia, Ecuador, Perú, Bolivia, Brasil, Paraguay Chile, Argentina, Uruguay

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AMÉRICA DEL SUR

SURINAM

Los pueblos indígenas de Surinam, cuyos principales pueblos son los *kari'na, lokono, trio, wayan* y *akurio*, totalizando aproximadamente 22.000 individuos, o sea, el 5% de la población total (+- 410.000) de Surinam, están actualmente intensificando especialmente la lucha por sus derechos territoriales.

Después de las elecciones para elegir miembros del Parlamento y Presidente, hace un año y medio, Surinam ha estado sometido a una continua tensión política entre el NDP (el partido revolucionario del ex poderoso militar Desi Bouterse) y los "viejos" partidos políticos anteriores al régimen militar. La coalición liderada por el NDP gobierna con el apoyo de una minoría en el parlamento, y todas las energías del gobierno se vuelcan a mantener la frágil coalición en tiempos de huelgas laborales, economía en deterioro, rumores sobre el tráfico de drogas por parte de oficiales de alto rango y amenazas contra la prensa. Los vínculos con Holanda, que es el mayor proveedor de ayuda para el desarrollo, se están rompiendo, y el presidente Wijdenbosch está buscando ingresos alternativos, entre otros en las relaciones Sur-Sur con los países árabes, Brasil, Cuba, China, Indonesia y Malasia, la membrecía de la Organización de Estados Islámicos y su banco de desarrollo islámico y, lo que es más perjudicial para los pueblos indígenas y *maroon*, también otorgando vastas concesiones madereras y mineras en el interior, en el territorio de los pueblos indígenas y maroon.

En este entorno ha sido muy difícil para nosotros atraer la necesaria atención hacia los derechos de los pueblos indígenas en Surinam, lo cual todavía es prioritario en la agenda de las principales organizaciones indígenas del país, la Organización de Pueblos Indígenas de Surinam (OIS) y la Vereniging van Inheemse Dorpshoofden de Surinam (VIDS: Asociación de Jefes de Aldeas Indígenas de Surinam). La existencia de pueblos indígenas como tal, todavía no es reconocida por el gobierno de Surinam; la única referencia es "amerindios". Los

derechos territoriales no están legalmente reconocidos y la participación en los procesos de toma de decisión no ha mejorado.

Un importante factor de debilitamiento para las organizaciones indígenas es que, por un lado, el gobierno niega consecuentemente prestar atención a los pueblos indígenas porque son la más pequeña minoría del país y, por otro lado, la limitada capacidad ejecutiva y la carencia de potencial humano de las organizaciones indígenas. Además, se utiliza una política de "dividir para reinar" para dividir a los pueblos indígenas y a los maroon, comunidades negras semi-indígenas que también viven tribalmente en el interior de Surinam desde el tiempo de la esclavitud en los siglos XVII y XVIII y de acuerdo a tradiciones africanas que datan de muchas generaciones. Sin embargo, continúan los esfuerzos, especialmente por parte de OIS, para mantener a los maroon participando de la lucha, básicamente igual, por un reconocimiento de territorios, el control sobre los recursos naturales y el desarrollo autónomo.

El movimiento indígena no ha sido para nada silencioso, afortunadamente. En abril de 1997 se realizó un espectáculo con una estrella indígena del pop, muy conocida en Holanda, en Paramaribo. Uno de los objetivos, recaudar fondos, no se cumplió, pero el otro objetivo, atraer una atención positiva hacia la identidad indígena, fue ciertamente logrado. En mayo de 1997, OIS participó en el Quinto Congreso de COICA (Coordinadora de Organizaciones Indígenas de la Cuenca del Amazonas), de la cual es miembro desde 1984. Tomando acción sobre una propuesta de OIS hecha desde 1995, el Congreso decidió establecer un Área Coordinadora dentro de la estructura, específicamente sobre educación, ciencia y cultura. Nardo Aluman, hasta entonces presidente de OIS, fue electo unánimemente como coordinador de esta nueva área de COICA. Él renunció consecuentemente a la presidencia de OIS, cuyo puesto lo detenta ahora Ramses Kajoeramari, un kari'na de Galibi, Surinam oriental. Ramses Kajoeramari participó en un seminario de COICA sobre biodiversidad y derechos de los pueblos indígenas en Puerto Ayacucho, Venezuela, en octubre de 1997, y Denis Kiba, miembro de Stidunal, una organización de base, participó en un seminario de la ONU para periodistas indígenas,

en Madrid, en enero de 1998. Se están realizando esfuerzos actualmente para comenzar a publicar un boletín de noticias para las comunidades.

Con el apoyo financiero de IWGIA, OIS pudo establecer una oficina en Johannes Kingstraat 7, Rainville, Paramaribo, la cual funciona ahora como un centro indígena, independiente de la membrecía de OIS o de VIDS. El centro está equipado con una computadora, que también fue comprada con el apoyo de IWGIA y COICA, para establecer conexiones de correo electrónico/internet para todos los miembros de COICA. La conexión ya se realizó y la dirección de correo electrónico de OIS es *oisur@sr.net*. Además, la oficina tiene una máquina fotocopiado ra, una impresora y un aparato de telefax.

La organización se hizo miembro, junto con VIDS, del Comité Directivo para el Programa de Pequeños Subsidios de la UNEP para ejecutar proyectos sobre el medio ambiente al nivel de la comunidad local, administrado en Surinam por la oficina nacional de UNDP. OIS y VIDS, así como otra organización indígena FINOS (Federación de Organizaciones Indígenas de Surinam), tuvieron una reunión con el Presidente Wijdenbosch en octubre de 1997, para discutir la instalación de un Concejo para el Desarrollo del Interior (ROB), que era uno de los acuerdos del Acuerdo de Paz de 1992 que puso fin a la guerra de guerrillas en la cual los Tucayana Amazones, el grupo indígena guerrillero, luchó por el reconocimiento territorial. Este acuerdo nunca fue apoyado por los siguientes gobiernos. Muy recientemente, en mayo de 1998, el concejo fue finalmente restablecido por el gobierno, ahora con representantes indígenas en su seno (el concejo previo tenía sólo representantes maroon y del gobierno y su funcionamiento fue muy vago). Una de las principales tareas del concejo es definir los objetivos para el desarrollo del interior y prestar asesoramiento sobre fondos disponibles para el interior, incluyendo la ayuda para el desarrollo otorgada por Holanda. Consideramos a esta participación como un importante reconocimiento que tiene que ser dado a la participación de representantes indígenas en las decisiones sobre política e implementación.

No obstante, el reconocimiento legal de los derechos territoriales sigue siendo un tema crucial. En diciembre de 1997, se presentó una demanda judicial contra las comunidades indígenas del este de Suri-

nam. Un previo "terrateniente" cuya parcela en tierras indígenas fue reconquistada por las comunidades durante la guerra de guerrillas, pero que tiene los necesarios papeles legales para la propiedad de la tierra, llevó a los jefes aldeanos indígenas ante la justicia bajo acusación de ocupación ilegal de "su" tierra. VIDS y OIS establecieron un comité de acción para la defensa de los derechos territoriales indígenas, en el cual participaron la mayoría de las organizaciones indígenas de Paramaribo. El centro OIS funcionó como centro de acción. Los jefes fueron traídos a la ciudad para presentarse ante la justicia y hablar con el abogado que fue contratado para este caso. El caso despertó mucha atención pública. El caso está todavía en manos de la justicia, pero legalmente hablando, existe una posibilidad de que las aldeas sean sentenciadas a abandonar la tierra en cuestión, sobre la base de las existentes, y deficientes, leyes sobre la propiedad de la tierra, que no reconocen ninguna reivindicación de los pueblos indígenas. Las comunidades indígenas están actualmente muy preocupadas de que una sentencia de ese tipo pueda sentar un precedente muy negativo para futuros casos legales.

Aunque el movimiento indígena de Surinam no puede decir que sea optimista sobre el futuro, existe confianza en que los renovados esfuerzos aumentarán la atención que actualmente está siendo dirigida hacia los derechos de los pueblos indígenas de Surinam.

VENEZUELA

Venezuela es uno de los países con la más rica diversidad biológica del mundo. Los pueblos indígenas desarrollaron culturas, que por funcionar armoniosamente dentro de sus ecosistemas, protegen y mantienen esa biodiversidad.

A pesar de eso, el estado venezolano no ha recurrido nunca a la experiencia cultural de tales pueblos para proteger de una forma real la biodiversidad dentro de sus fronteras.

Para someter esta diversidad de recursos a sus propios intereses, el estado ha creado una gran y variada cantidad de Áreas Bajo Régimen de Administración Especial (ABRAEs) en extensas partes de sus territorios.

Hasta los inicios de los años '90, se establecieron en el país un total de: 39 Parques Nacionales, 17 Monumentos Naturales, 47 Zonas Protectoras, 10 Reservas Forestales y dos Reservas de Biosfera. Las más extensas ABRAE's se encuentran en aquellas regiones del Interior venezolano, que al mismo tiempo son territorios ancestrales indígenas. A pesar de que el Convenio 107 de la OIT es vigente como Ley Nacional en Venezuela, las autoridades venezolanas consideran la tierra y los recursos naturales dentro de estas ABRAE's como propiedad nacional; y por esto los indígenas que habitan en éstas áreas no tienen derecho a aspirar a títulos de propiedad sobre la tierra.

Una de las ABRAE's más extensas es la Reserva Forestal Imataca, que fue declarada ya en el año 1961, abarca unas 3.203.250 hectáreas y cubre parte de los territorios ancestrales de cuatro pueblos indígenas del oriente venezolano: los *pemón, warao, arawako* y *kariña*. El 14 de mayo de 1997, el Poder Ejecutivo aprobó, a través del Decreto Presidencial Nº 1850, un Plan de Ordenamiento y Reglamento de Uso de la Reserva Forestal Imataca. Este Plan permite, en una gran parte de la Reserva, usos de minería, de industria y usos de residencia-rural.

Incluso el Fiscal General de la República se pronunció en forma negativa sobre este Reglamento de Uso, dictado por el Gobierno, alegando que la actividad minera es incompatible con los fines que dieron lugar a la creación de la Reserva Forestal Imataca.

El gobierno ha justificado su Decreto con el argumento de que hubo necesidad de regular una situación caracterizada por una imperante ilegalidad de las actividades mineras en la zona.

El Decreto 1850 tuvo marcada resonancia durante el año 1997 en el debate público del país, en una extensión imprevista con respecto a la política económica y ambiental de Venezuela. La apertura minera es considerada como una de las prioridades en la política del gobierno actual venezolano, e Imataca es el símbolo más dramático de ésta política. En la Reserva, ya ochenta asociaciones han recibido concesiones mineras. En búsqueda de oro, las compañías mineras están contaminando el suelo y las aguas con mercurio. Las comunidades indígenas están viendo la destrucción de sus medios de subsistencia. Frente a esto, el estado venezolano, en vez de re-fortalecer una explotación sustentable de los recursos naturales en la Reserva Forestal Imataca,

ha logrado por el contrario legalizar el ecocidio y la destrucción de las culturas indígenas.

Durante el año 1997, se introdujeron en la Corte Suprema de Justicia de Venezuela varias demandas de nulidad contra el Decreto 1850 por inconstitucionalidad e ilegalidad. Una de estas demandas fue introducida en nombre de 50 comunidades indígenas, afectadas por las concesiones mineras. Todavía se está esperando una decisión definitiva de la Corte sobre este Decreto. De esta esperada decisión de la Corte va a depender no solamente el futuro de la zona Imataca, ella tendrá repercusiones como precedente para el destino de otras ABRAE's de Venezuela, ricas en recursos de subsuelo, y que son, al mismo tiempo el hábitat tradicional de etnias indígenas. ¿Va el tribunal supremo a dar luz verde a los fuertes intereses mineros, o va la Corte a frenar el camino de destrucción para los pueblos indígenas, que viven en las ABRAE's, declarando nulo el Decreto 1850?

Por todo esto, el caso Imataca es el asunto indigenista más importante y significativo del país en el año 1997.

Un tema muy importante en el estado más sureño de Venezuela, Amazonas, fue el de la división político-territorial del estado. Como ya se expresó en el informe sobre Venezuela en *El Mundo Indígena* 1996-97, la Corte Suprema de Venezuela había anulado una Ley de División política del estado. El propósito de esta Ley fue el establecimiento de una organización municipal en el Estado. La Decisión de la Corte Suprema criticó sobre todo la violación del derecho a la participación política de los pueblos indígenas en la formulación de la ley impugnada, y ordenó a la Asamblea Legislativa elaborar una nueva ley que garantizase el derecho a la participación política de estas comunidades.

Durante la primera parte del año 1997, las organizaciones indígenas del estado elaboraron un proyecto de ley, el cual garantiza el régimen de excepción para la población indígena previsto en el Art. 77 de la Constitución nacional. Tal proyecto se basa, entre otras cosas en: el respeto a los espacios territoriales indígenas, en la descentralización de fondos financieros, y en el establecimiento de un gobierno municipal especial para la zona habitada por los *yanomami* venezolanos. Sin

embargo, la Asamblea del Estado Amazonas, en diciembre de 1997, dictó una nueva Ley sin tomar en cuenta la propuesta indígena, desacatando así lo ordenado por la Corte Suprema.

En el Amazonas, el conflicto jurídico, político y público sobre este tema continúa hasta el momento.

En todas partes del país siguió el proceso de despojo de tierras de grupos indígenas. Los indígenas se ven enfrentados con alianzas entre intereses económicos y políticos tanto regionales como nacionales.

Durante el año 1997 en la región norteña del estado Amazonas, miembros pertenecientes a una "Asociación de productores DIÑACU" invadieron tierras pertenecientes tradicionalmente a comunidades de las etnias indígenas *piaroa, jivi,* y *ye'kuana*. Los miembros de la mencionada

Asociación se aprovecharon de una indebida autorización, proveniente del Ministerio del Ambiente y del Instituto Agrario Nacional, para ocupar unas 49 hectáreas de terreno, ubicadas en la Zona Protectora de la Cuenca Hidrográfica del Río Cataniapo. Esta invasión llevó a la destrucción de siembras indígenas y a la deforestación de partes de su hábitat ancestral.

En el estado Zulia, algunas comunidades del pueblo *barí* se ven involucradas en un enfrentamien to peligroso con empresas petroleras.

Según informes de la prensa venezolana, algunas empresas petroleras han empezado a crear grupos paramilitares, un fenómeno que tiene conexiones con la zona vecina de Colombia. Con estas medidas, las empresas -sobre todo la empresa transnacional MAICCA- intentan romper la fuerte resistencia que muestran grandes partes del pueblo barí contra actividades de empresas petroleras en su territorio. Las campañas de prensa en desprestigio contra este pueblo indígena se intensificaron y aún continúan, con la anuencia del estado venezolano. Se les acusa de tener conexiones con narcotraficantes y guerrilleros colombianos, y no se les ha dado oportunidad de expresarse.

Otro caso de despojo de tierras indígenas es el de la Comunidad del pueblo *kariña*, "Jesús, María y José", cuyos miembros fueron desalojados por orden del alcalde del Municipio Aguasay (Estado Mona-

500

gas). Según información de la organización venezolana de derechos humanos PROVEA, los miembros de la comunidad "Jesús, María y José" señalaron que la empresa venezolana Corpoven, que realiza trabajos de exploración y explotación en la zona, mantiene vínculos con las autoridades municipales de Aguasay. La comunidad indígena está aún a la espera de una decisión de la Corte Suprema venezolana sobre la ilegalidad de la orden municipal.

COLOMBIA

En Colombia sigue la violencia generalizada, la cual también afecta a muchos pueblos indígenas del país. Es, por ejemplo, el caso de los *koreguajes*, que a fines de junio de 1997 sufrieron el asesinato de 13 indígenas mientras que otros 60 fueron amenazados de muerte. Estos asesinatos se suman a otros 21 que perdieron la vida violentamente en los últimos años.

El pueblo koreguaje vive en la región de Caquetá donde sus tierras son escenario de enfrentamientos entre el Ejército Nacional y grupos insurgentes, al mismo tiempo que existe una fuerte actividad de grupos narcotraficantes. Las 1.400 personas que integran el pueblo koreguaje han hecho repetidos llamados a las autoridades nacionales y a la opinión pública internacional para pacificar la zona y garantizar los derechos de este pueblo.

Por otro lado el pueblo *u'wa* continúa su lucha en defensa de su territorio. Su principal amenaza es la presencia de la compañía petrolera Oxy y ha declarado su intención de suicidarse colectivamente si no se respeta su territorio.

La compañía petrolera viene negociando con las autoridades nacionales desde 1992, la exploración y explotación petrolera en el área u'wa.

La compañía afirma haber realizado, entre 1993 y 1994, unas 30 reuniones para informar y consultar a los u'wa pero los indígenas afirman que la petrolera se entrevistó con miembros aislados de la comunidad o con gente que vive fuera de ella y que nunca se les explicó el proyecto.

En 1997 una delegación de indígenas u´wa viajó a Washington con el propósito de solicitar a la Corte Interamericana de Derechos Humanos que obligara al gobierno colombiano a revocar la licencia ambiental que permite a la compañía petrolera los trabajos de exploración y exlotación en zona u´wa.

Por su parte, el gobierno de Colombia, buscando dirimir el conflicto, acudió a la Organización de Estados Americanos para lograr un concepto sobre el caso. Luego de una visita al territorio indígena, la OEA elaboró un documento en cuyas conclusiones pedía a la Oxy suspender inmediatamente las exploraciones, procurar un acercamiento entre ambas partes y tener el consentimiento de los u´wa ante cualquier eventualidad.

Mientras se espera que el tribunal internacional decida si es correcto o no que la petrolera tenga dicha autorización y que la Oxy entre en razón y respete la integridad de los indígenas, los u´wa recibieron, en reconocimiento a su lucha, dos prestigiosos premios internacionales, el Goldaman de Estados Unidos y el Premio Bartolomé de las Casas, del gobierno español. Asimismo mantienen su decisión del suicidio colectivo, en caso de que la Oxy opere en su territorio.

ECUADOR

Participación indígena en la política nacional y reforma constitucional

Posiblemente este constituye un año histórico para el movimiento indígena de Ecuador, por sus conquistas en el orden jurídico, relacionadas con el reconocimiento de su existencia como nacionalidades y pueblos y ser considerados como sujetos jurídicos con derechos colectivos.

Estas conquistas han sido posibles gracias al desarrollo de estrategias creativas y novedosas desarrolladas por el movimiento indígena a partir de 1996, que van desde la participación electoral, por medio de la creación de un instrumento político propio (Pachakutik), las medidas de presión como las marchas y levantamientos, hasta la convocatoria al diálogo y a la concertación nacional para analizar sus propuestas de reforma constitucional.

En este contexto los hechos que merecen destacarse son los siguientes:

- La participación del movimiento indígena en la rebelión del 5 de febrero de 1997, que concluyó con el derrocamiento del Gobierno de Abdalá Bucaram, permitió incorporar varias de sus propuestas en el acuerdo de conformación del Gobierno Interino, de éstas las más importantes son:
- La eliminación del Ministerio Étnico y la creación, en su lugar, del Consejo Nacional de Planificación y Desarrollo de los Pueblos Indígenas y Negros (CONPLADEIN), conformado por representantes de las organizaciones indígenas y negras nacionales y un delegado del Presidente de la República, quien lo preside. El planteamiento de las organizaciones para la creación de este Consejo obedecía a la necesidad de superar la orientación clientelar y manipuladora que había caracterizado a las acciones de gran parte de los gobiernos hacia los pueblos indígenas y dar paso a la formulación de una política de Estado, que se fundamente en las propuestas indígenas y se constituya un marco institucional que asegure la representación de las organizaciones.
- La convocatoria a una Asamblea Nacional Constituyente, para que elabore una nueva Constitución Política, con la participación de representantes de los distintos sectores políticos y sociales, que siente las bases jurídicas para la reforma del Estado. Desde el punto de vista de las organizaciones indígenas este espacio se constituía en imprescindible para conseguir reformas que tomen en cuenta el carácter plurinacional y multicultural del Estado y les reconozca sus derechos como pueblos y nacionalidades. [1]

A pesar de que la convocatoria a la Asamblea Constituyente formó parte de los acuerdos políticos de febrero y fue ratificada por una consulta popular convocada por el Gobierno Interino, éste junto con sectores políticos mayoritarios en el Congreso Nacional, pretendieron obstaculizar la convocatoria a la Asamblea. La CONAIE, junto con otras organizaciones indígenas protagonizaron un levantamiento durante una semana para presionar la realización de la Asamblea Consti-

503

tuyente y frente a la negativa del Gobierno convocaron a distintos sectores sociales y políticos a una Asamblea Popular. Frente a la acogida nacional del planteamiento indígena, el Gobierno y el Congreso se vieron obligados a convocar a una Asamblea Nacional, quitándole el carácter de Constituyente.

La CONAIE mantuvo la convocatoria a la Asamblea Popular, que se realizó del 13 al 18 de octubre, con una gran concurrencia de delegados de distintos lugares del país y de diferentes sectores sociales (indígenas, trabajadores, mujeres, ecologistas, artistas, estudiantes...), quienes trabajaron en una propuesta de reforma constitucional para ponerla a consideración de la Asamblea Nacional.

La Asamblea Popular tuvo como premisa la realización de asambleas locales, en las cuales se formularon propuestas de reforma y se designaron a los candidatos que les iban a representar en la elección para la Asamblea Nacional. 15 días antes de la Asamblea Popular, partieron marchas desde los distintos extremos del país, por iniciativa de las mujeres indígenas. Estas marchas iban nutriéndose a medida que avanzaban hacia Quito, donde el día 13 se reunieron e inauguraron la Asamblea. Los marchantes recibieron grandes muestras de apoyo a su paso por cada una de las ciudades.

El 30 de noviembre se realizaron las elecciones para designar a los miembros de la Asamblea Nacional. El movimiento indígena participó como Pachakutik, en alianza con otros movimientos sociales y obtuvo 8 (indígenas) de 70 asambleístas, logrando conformar un bloque de 15 asambleístas, junto con otras fuerzas políticas con las cuales participó en alianza. Nina Pacari, (*quichua*, zona nor-andina) ex dirigente de la CONAIE y ex Secretaria Ejecutiva de CONPLADEIN, fue designada como Presidenta de la Comisión de Reforma del Estado de la Asamblea Nacional Constituyente.

Entre las propuestas de reforma constitucional formuladas por el movimiento indígena, cabe destacar las siguientes:

- a. Reconocimiento del carácter plurinacional y pluricultural del Estado, anotando que su adopción significa construir una estructura político-administrativa descentralizada, culturalmente hete-

rogénea y abierta a la representación propia y participativa de todos los sectores sociales.

- b. Organización del Estado: incorporar la categoría de territorios de los pueblos o nacionalidades indígenas, parroquias indígenas y comarcas negras, dentro de la organización territorial del Estado, en la cual se reconozcan formas de autonomía territorial y se precisen aspectos relacionados con la competencia y jurisdicción en relación con el conjunto de entidades territoriales del Estado, mediante dos mecanismos: Ley orgánica de ordenamiento territorial del Estado y la Ley orgánica de los pueblos y de las nacionalidades indígenas.
- c. Representación en organismos del Estado: que un tercio de los diputados del Congreso Nacional o Parlamento correspondan a la representación de las nacionalidades indígenas, elegidos mediante un sistema electoral propio, fijado por una ley orgánica de los pueblos y de las nacionalidades indígenas, al igual que la representación en organismos colegiados del poder ejecutivo.
- d. Superar el criterio de contemplar exclusivamente derechos ciudadanos y reconocer a los pueblos indígenas y negros como sujetos jurídicos, con derechos colectivos.

Con la finalidad de lograr una aceptación de sus propuestas de reforma constitucional en la Asamblea Nacional, el movimiento indígena optó por una estrategia de diálogo con todos los sectores posibles (partidos políticos, iglesias, militares, medios de comunicación, universidades, empresarios...). En este contexto, la CONAIE y la Conferencia Episcopal Ecuatoriana, con el apoyo del BID, el Fondo Indígena y PNUD, convocaron a una mesa de concertación, en la que participaron representantes de los sectores antes señalados. En este evento participó como facilitador Víctor Hogo Cárdenas, Ex vicepresidente de Bolivia y Presidente del Fondo Indígena. La CONAIE, además, promovió reuniones de diálogo con dirigentes de cada uno de los partidos políticos.

Esta actuación del movimiento indígena, ha sido resaltada en los últimos meses por la prensa nacional, como una estrategia de negocia-

ción que da ejemplo de una forma distinta del quehacer político, que privilegia el diálogo y el consenso para arribar a las modificaciones necesarias del Estado.

Cabe resaltar, además, que con esta estrategia, las organizaciones lograron superar una tendencia un tanto generalizada en la política ecuatoriana, de convertir las propuestas en simples objetos de negociación a cambio de su apoyo en otros temas. Los indígenas plantearon la necesidad de definir su posición sobre la base del análisis de cada uno de los temas de la agenda de reforma constitucional.

Si bien en la mesa de concertación y en algunos de los diálogos no se aceptaron todos los planteamientos indígenas, constituyeron un espacio fundamental para llegar a acuerdos sobre puntos básicos relacionados con los derechos colectivos de los pueblos indígenas, que sirvieron de premisa para su incorporación en las reformas constitucionales por parte de la Asamblea Nacional.

Los aspectos más relevantes de los derechos de los pueblos indígenas y negros, aprobados por la Asamblea, el 24 de abril, son: el derecho a conservar la propiedad de las tierras comunitarias que serán inalienables, inembargables e indivisibles (no se aceptó el término territorios); a participar en el uso, administración y conservación de los recursos naturales renovables de sus tierras, a ser consultados sobre planes y programas referidos a la prospección y explotación de recursos no renovables que se hallen en sus tierras, a acceder a los beneficios que esos proyectos reporten, a recibir indemnizaciones por impactos socio-ambientales que causen; se reconoce a las autoridades de los pueblos indígenas el derecho de ejercer funciones y aplicar normas y procedimientos propios en la solución de conflictos de conformidad con sus costumbres o derecho consuetudinario, siempre que no sean contrarios a la constitución y las leyes; el derecho a la propiedad intelectual colectiva de sus conocimientos ancestrales, a formular prioridades en lo que atañe a su desarrollo, a planes y proyectos para el mejoramiento de sus condiciones económicas y sociales y a recibir del estado un adecuado presupuesto para ello.

Un tema sumamente conflictivo fue el referente al carácter del seguro social. La propuesta de una comisión de la Asamblea de privatizarlo, provocó la reacción inmediata de indígenas y campesinos, qui-

enes tuvieron paralizado al país durante una semana, por considerar que esa propuesta suponía debilitar al seguro social campesino. Finalmente la Asamblea aprobó mantener los principios actuales en los que se fundamenta el seguro social, creando un sistema de seguridad social, del cual forman parte también los seguros privados.

Un planteamiento, definido como central por parte de las organizaciones indígenas, que no fue aceptado por la Asamblea Nacional, fue el de la definición del carácter del Estado como plurinacional, por considerar que aún no existen condiciones en el país para asumir un cambio de tal naturaleza. Los asambleístas de Pachakutik y las organizaciones indígenas aceptaron esta decisión por respeto a los mecanismos democráticos, señalando que continuarán trabajando hasta lograr este objetivo. Resaltaron, además, que el argumento de aquellos que se opusieron al carácter plurinacional del Estado, no supone aceptar la validez del planteamiento, simplemente cuestiona su pertinencia para el momento actual.

Existe en el momento una gran preocupación en el país sobre el futuro de las reformas constitucionales, debido a la decisión del Congreso y del Gobierno de desconocer las reformas que la Asamblea realice a partir del 30 de abril. Los indígenas asumieron la defensa y custodia de la Asamblea que trabajará por una semana más y esperan que la nueva constitución entre en vigencia con el nuevo gobierno, en agosto de 1998.

Otro hecho que cabe destacarse es la acción desarrollada en el ámbito del Congreso Nacional, encabezada por Miguel Lluco, Diputado quichua de Chimborazo (zona sur andina), quien mediante una importante campaña de conferencias, debates y cabildeos, consiguió que el 14 de abril el Congreso ratifique el Convenio 169 de la OIT. A partir de esa fecha el Convenio tiene el rango de norma constitucional. Esta ratificación constituyó un soporte muy importante para las decisiones sobre derechos colectivos en la Asamblea Nacional.

Además, Miguel Lluco ha tenido una destacada actuación en el escenario político nacional, desarrollando una permanente acción de denuncia sobre casos de corrupción, junto con otros diputados del Pachakutik.

El 30 de mayo se realizarán elecciones presidenciales, para el Congreso Nacional, y para la renovación parcial de dignidades seccionales. El movimiento indígena decidió participar bajo el signo político de Pachakutik, en alianza con otros sectores políticos. Las organizaciones esperan conseguir una presencia significativa en el Congreso Nacional, que les permita trabajar en las propuestas legales que viabilicen las conquistas constitucionales alcanzadas en la Asamblea, asi como ampliar y fortalecer su presencia en los gobiernos locales.

Participación indígena en los poderes locales

La participación indígena en los gobiernos y poderes locales, ha sido otro de los aspectos significativos en este año. En 1996, los indígenas lograron la elección de 10 alcaldes, varios concejales en 33 municipios y concejeros provinciales en 11 provincias. Este tema de la participación y gestión de los gobiernos locales se ha constituido en un nuevo elemento de reflexión en el interior de las organizaciones. No en todos los casos se lo relaciona con las propuestas indígenas de descentralización, autonomía y formas de administración propias, hay casos donde las autoridades indígenas electas reproducen la forma de actuación de cualquier político; también se observan muchas limitaciones en el ámbito de la gestión. Sin embargo, existen algunas experiencias que se constituyen en referentes para la formulación de una política más precisa sobre el tema. Así, algunas autoridades indígenas de la zona andina, se han esforzado por crear espacios de concertación con los diversos actores sociales a nivel local. En zonas de diversidad étnica, con gran presencia de los mestizos, como es el caso de Cotacachi (cercano a Otavalo), crearon la asamblea cantonal y realizaron un proceso participativo de elaboración del plan de desarrollo cantonal.

En zonas eminentemente indígenas, como es el caso de Guamote (90% de su población es quichua, el alcalde y 6 de 7 concejales del municipio son indígenas), en la zona sur-andina, se enfrentan a la necesidad de pensar en el cantón, en ejercer la pluralidad, el derecho a la representación y a la participación de lo diverso. Tres instancias son las que organizan en Guamote para el efecto: primero, un parlamento indígena cantonal, conformado por los presidentes de los cabildos de

las 118 comunidades, independientemente de la federación a la que pertenecen, forman parte, además, las autoridades indígenas del Municipio (el Alcalde y los concejales), su función es definir la política indígena, establecer criterios y prioridades para el desarrollo cantonal, y tomar cuenta de las acciones de las autoridades, quienes son entendidas como sus representantes, por tanto, no pueden actuar al margen de las resoluciones del parlamento. En segundo lugar, crean el Comité de Desarrollo Local, conformado por representantes de todas las organizaciones locales de segundo grado, indígenas y mestizas, por las instituciones gubernamentales y no gubernamentales que trabajan en el lugar. El Comité es el espacio para la planificación del desarrollo local, por medio del consenso y de coordinación inter-institucional. Y, en tercer lugar, el Municipio, con sus funciones específicas, pero considerado más como un ente ejecutor de las políticas y planes definidos por las otras dos instancias.

Temas relacionados con la cuestión ambiental, la biodiversidad y la defensa de la propiedad intelectual colectiva

Con las concesiones otorgadas por el Gobierno a través de la 8ª ronda de licitaciones para la exploración y explotación petrolera, éstas copan prácticamente casi todo el mapa amazónico ecuatoriano, afectando por ende a los territorios indígenas, incluidos los del sur (*shuar* y *achuar*) donde anteriormente no existía explotación petrolera. En esta zona, además, se han realizado concesiones a grandes empresas para la minería aurífera. En este contexto, se tornan preocupantes los impactos ambientales y también los impactos organizativos causados por la forma en que se realizan las negociaciones con las compañías. Se ha iniciado algunas reflexiones y esfuerzos para elaborar propuestas tendientes a afrontar tres limitaciones, las dos primeras referidas al Estado y la tercera a las organizaciones: la ausencia de normas jurídicas claras para las empresas sobre los impactos organizativos, socioculturales y económicos relacionados de manera específica con los pueblos indígenas; la falta de una instancia para tratar los conflictos entre empresas y organizaciones y, la ausencia de normas claras en el interior de las organizaciones para la toma de decisiones frente a la presen-

cia de las compañías. La ratificación del convenio 169 de la OIT y los derechos colectivos contemplados en la nueva constitución, seguramente permitirán viabilizar estas propuestas.

Los temas relacionados con la biopiratería y la defensa de la propiedad intelectual colectiva de los pueblos indígenas fueron debatidos a propósito de las discusiones para la promulgación de la ley de propiedad intelectual en el Congreso. La orientación de esta ley a considerar los derechos de propiedad desde una óptica exclusiva de la propiedad privada, dejaba sin respaldo legal a varias denuncias de las organizaciones indígenas de la amazonía sobre patentes realizadas sobre la base de sus conocimientos realizados en el exterior, como es el caso de la ayahuasca. Este vacío legal se logró superar con la incorporación en la nueva Constitución del derecho a la propiedad intelectual colectiva de los conocimientos ancestrales de los pueblos indígenas.

La representación como pueblos y nacionalidades y los límites de las formas organizativas actuales

¿La actual forma de organización permite la representación en términos de pueblos y nacionalida des? Esta es la pregunta que ha cobrado fuerza en el interior de la CONAIE durante este año. Las actuales formas organizativas, que si bien han sido muy útiles en las décadas pasadas, son producto de esquemas sindicales e incluso misionales que, por un lado, se superponen y/o suprimen las formas de organización tradicional y, por otro lado, no representan la diversidad socioeconómica que caracteriza en la actualidad a los pueblos indígenas, y en muchos casos se estructuran bajo criterios que reproducen la actual organización territorial del Estado y no bajo criterios de territorialidad étnica. Estos límites se expresan también en otros ámbitos de la vida de las organizaciones, aspecto que ha llevado en no pocos casos a una pérdida de credibilidad de las estructuras de dirección.

Estas reflexiones han llevado, por ejemplo, a que en el último congreso de Ecuarunari, se resolviera su transformación como Confederación de los pueblos de la Nacionalidad Quichua. Si bien este proceso constituye un avance, es evidente que se requieren muchos cambios para que su estructura realmente corresponda con tal representa-

510

ción, para no caer en el riesgo de quedarse en un simple cambio de denominación.

Un criterio muy importante sobre el camino que debe seguirse en este proceso, se refiere a la necesidad de devolverle el rol fundamental a las formas de representación de los grupos locales, a los cabildos comunales para el caso de los quichua, a partir de los cuales se organizarían formas de representación hacia arriba (se observa indicios de este proceso en Guamote, con el parlamento indígena cantonal). Otro criterio también importante es aquel que plantea la necesidad de desarrollar una noción sobre ciudadanía étnica, es decir, sobre los derechos del individuo en el interior de cada pueblo, de formas de participación ciudadana en el interior, que si bien retome formas tradicionales, enfrente también las coniciones y retos actuales.

Evidentemente este es un tema de suma importancia, tanto para el desarrollo futuro de cada pueblo, como para adecuar su estructura a sus propias demandas de autonomía y formas de representación en el Estado. Posiblemente en los próximos años, apoyados en las conquistas jurídicas y políticas del presente, el escenario interno cobre cada vez mayor relevancia y las organizaciones profundicen sus reflexiones relacionadas con la orientación de su propio desarrollo.

Notas

1) Cabe señalar, como antecedente, que en esos momentos Ecuador se caracterizaba por ser un país con una gran debilidad jurídica en relación con el reconocimiento de los derechos indígenas, a pesar de contar con un movimiento indígena de una gran fuerza organizativa y de presencia creciente en el escenario político nacional. Hasta 1995 la Constitución reconocía muy tímidamente la existencia de las lenguas indígenas, la reforma de 1995 (art. 1) simplemente menciona la diversidad étnica del país. No había ningún desarrollo legislativo significativo posterior a la actualización de la Ley de Comunas (1937-1980) y tampoco había sido ratificado el Convenio 169 de la OIT.

511

PERÚ

El paquete legislativo que, en 1995 intentó poner barreras definitivas a las pretensiones territoriales de los pueblos indígenas, recibió una fuerte oposición y no logra aún imponerse. Pese a las promociones gubernamentales ninguna comunidad ha solicitado la parcelación, venta o hipoteca de sus tierras. Hasta la fecha, la mal llamada Ley de Tierras no está reglamentada y todo indica que sufrirá muchos cambios antes de entrar en aplicación.

Sin embargo, y pese a la nueva declaración constitucional que adjetiva al Perú como un país pluriétnico, la política encaminada a marginar, reducir, integrar y campesinizar sistemáticamente a los pueblos indígenas, al decir de la organización nacional AIDESEP en su informe a la OIT, se mantiene firme.

Explotación petrolífera en el territorio achuar (Foto: Archivo IWGIA)

Las nuevas normas sobre Zonas de Protección Ecológica y las anunciadas reformas de la Ley Forestal y de Aguas, unidas a la amenaza latente de las subastas de tierras libres anunciada por la Ley 26505, están dirigidas a poner en manos del capital privado, nacional y extranjero, los recursos y los espacios que sirven a la subsistencia básica de las comunidades indígenas.

El propósito de acortar los espacios a los pueblos indígenas amazónicos, que resultan un obstáculo para algunas de las prioridades políticas estatales -la privatización de los recursos naturales y la exploración y explotación de hidrocarburos- se plasma, también, en normas que permiten acelerar la titulación y el registro de predios particulares en la región y la imposición de dificultades a la titulación de las comunidades indígenas. Particularmente notorio e injusto es el caso de las comunidades *asháninkas* que han iniciado el retorno a sus hogares después de largos años de haber estado sometidas a procesos de extrema violencia y se encuentran con sus tierras concedidas a madereros y empresas petroleras.

La Dirección de Educación Bilingüe ha sido desmantelada y se promueve progresivamente la castellanización de la educación de los niños indígenas a través del nombramiento de profesores hispanohablantes en gran número de las escuelas comunales.

Dentro del aparato estatal, el tema "poblaciones indígenas" se encuentra relegado a una Unidad dentro de la Oficina de Desarrollo Productivo de la Gerencia de Desarrollo Humano del Ministerio de la Mujer. La Oficina tiene como finalidad expresa la promoción de la integración y el desarrollo productivo de las "poblaciones indígenas", categorizadas como un "grupo objetivo".

Mientras que en regiones como el Río Tigre, Corrientes y Pastaza -como también en otras- se desarrollan enfermedades endémicas como la hepatitis B, falsiparum, malaria o rabia, sin la menor atención de los servicios estatales, éstos se presentan de forma impuesta a las comunidades con programas, no solicitados ni deseados, de planificación familiar, basados en la promoción de la esterilización voluntaria.

Por otro lado, las políticas de ajuste han llevado a gran número de las comunidades andinas y amazónicas a entrar en un circuito de dependencia de los programas de apoyo social, fuertemente politizados

e integradores. El nombramiento de "tenientes gobernadores", una autoridad designada por el gobierno con fines proselitistas y con amplias facultades de control social y político, es otra intervención contradictoria con la proclamada autonomía constitucional que ha sido recibida con recelo por toda la sociedad nacional.

Asháninka, Gran Pajonal, Perú (Foto: Alejandro Parellada).

El año 1996 ha estado marcado por una profundización de la problemática originada por la penetración de las empresas petroleras transnacionales en los territorios indígenas. Ya son más de 20 las federaciones en conflicto. Las facilidades otorgadas por el gobierno a las empresas implican la implementación de medidas de estabilidad jurídica y tributaria, facilidades y excepciones aduaneras, desregulación del

mercado de consumo, facultades para que el contratista pase a ser el dueño de los hidrocarburos extraídos, libre disponibilidad de divisas, consolidación de contratos para fines tributarios, posibilidad de recurrir al arbitraje internacional ante los conflictos contractuales, derogación de la normativa de protección laboral, incremento de la superficie de concesiones, facilidades para la instalación de la infraestructura de transporte y distribución, medidas favorables a las empresas en el régimen bancario, de seguros, etc.

Como resultado de estos incentivos y privilegios otorgados a las empresas, el Perú ocupa ahora el quinto lugar en el mundo como país de interés petrolero para los inversionistas. Según fuentes de Perupetro, con los contratos vigentes se tiene comprometidos desde 1996 hasta el 2000 la perforación de 15 pozos por año.

Hasta la fecha, los compromisos de inversión petrolera en el Perú ascienden a más de tres mil seiscientos millones de dólares. El proceso intensivo de concesiones iniciado en la presente década, continúa, habiéndose otorgado 11 lotes petroleros en la amazonía norte, 10 en la amazonia central y 5 en la amazonia sur, que totalizan mas de 20 millones de hectáreas (frente a los cuatro y medio millones de hectáreas reconocidas a los 64 pueblos indígenas en toda la historia republicana).

En esta promoción sin barreras, los pueblos indígenas se han visto inmersos, de forma sorpresiva, en una nueva y grave problemática, incluyendo aquellos pueblos sin contactos previos o los pueblos en recomposición tras el periodo de violencia.

Pese a que, en un principio, algunas organizaciones se resignaron a negociar condiciones mínimas, el incumplimiento de los acuerdos y las alteraciones de la paz social que acompañan a las incursiones petroleras han ido acelerando un proceso de reflexión y análisis que ha tenido como resultado una firme reacción frente a los atropellos. Las empresas se han encontrado con una respuesta organizativa inesperada de parte del movimiento indígena, una dificultad que había sido minimizada por los promotores estatales.

Las denuncias por CORPI del derrame petrolero, por Petro-Perú, en el Rio Rojo, la fuerte posición de la FENAMAD en defensa de los pueblos no contactados de Madre de Dios, la negativa de los *achuales*

515

de ATI y ORACH frente a la entrada no consultada de la empresa ARCO, las denuncias de los *quechuas* de Lago Anatico (FEDIQUEP) y de las comunidades del Río Tigre y Corrientes (FECONACO y FECONAT) por la contaminación de sus ríos y lagunas como resultado de los trabajos de OXY, son algunos de los hitos que están marcando la nueva etapa del movimiento indígena en el Perú.

Pero si las medidas promocionales fueron muy considerables, la protección de la actividad petrolera ante las iniciativas indígenas no se ha hecho esperar. Las empresas han obtenido normas favorables para salir airosas de cada nuevo problema. Un dispositivo anuncia la obligatoriedad de llegar a un acuerdo con la empresa en 30 días o, en caso contrario, resignarse a aceptar una servidumbre obligatoria con amenaza de expropiación. Otro condiciona las posibilidades de denuncia de los delitos ecológicos al dictamen previo de las autoridades del sector. Un tercero trata de confundir el compromiso de consulta previa -un procedimiento señalado en el Convenio 169, vigente en el Perú- con la presentación, en Lima, de los tecnicismos de los Estudios de Impacto Ambiental.

Sin embargo, la necesidad de defender los territorios, los recursos, el conocimiento autóctono, el idioma, la educación, la salud y la supervivencia en un contexto tan adverso, ha generado un notable repunte del movimiento indígena amazónico a lo largo de todo el año. AIDESEP, la organización matriz del movimiento indígena amazónico del Perú, así como sus redes regionales y sus Federaciones locales, vienen presentando y defendiendo plataformas reivindicativas y programas de acción en cada una de las áreas conflictivas. Prueba de ello es que, pese a las dificultades, los procesos de reconocimiento de tierras indígenas, coordinados por las propias organizaciones -como los del Paranapura y Ucayali-, siguen desarrollándose con resultados efectivos. La defensa de los recursos naturales -principalmente los maderables- está a la orden del día. El acceso a los recursos genéticos está bajo control y se ha conseguido normar la posibilidad de un procedimiento *sui géneris* para la protección del conocimiento indígena.

El Programa de Formación de Maestros Bilingües Interculturales -de AIDESEP- ha expandido su acción con tres Programas descentralizados de Profesionalización. Hay en marcha diversos Programas de

516

Salud Indígena en Atalaya y Gran Pajonal. Se han diseñado nuevos modelos de capacitación masiva y dirigencial en varias regiones. Diversas instancias del gobierno, incluidas las autoridades sectoriales de hidrocarburos, han pedido la participación de AIDESEP en el diseño de nueva normativa.

Este repunte del movimiento indígena amazónico del Perú se ha visto reconocido, en el plano internacional, con dos importantes distinciones a Federaciones afiliadas a AIDESEP.

En un caso, la OIRA (Organización Indígena de la Región de Atalaya), ha recibido el Premio Anti-Slavery en mérito al proceso de liberación de las comunidades atrapadas en poder de los madereros que tuvo como colofón la victoria electoral en los comicios municipales provinciales y distritales de una población mantenida durante siglos en condiciones de esclavitud.

En el otro, la FENAMAD (Federación Nativa del Río Madre de Dios y Afluentes), fue distinguida con el Premio Bartolomé de Las Casas por su cerrada defensa de los pueblos *yora, nahua, amahuaca* y *mashco-piro* del Alto Río de las Piedras, voluntariamente aislados y acechados por las incursiones de la empresa Mobil en las tierras de su asentamiento actual.

En ambos casos -esclavos en proceso de liberación e indígenas en extrema vulnerabilidad ante su primer contacto-, se evidencia el contraste de las razones de la distinción con la visión de los planificadores del gobierno peruano que, lejos de atender a la realidad de los procesos que se viven actualmente en la Amazonía -que exigen un replanteamiento del tejido social con criterios de justicia histórica-, plantea una agresiva intervención empresarial en la región.

BOLIVIA

En junio de 1997 el movimiento indígena de las tierras bajas de Bolivia participó en las elecciones nacionales por primera vez en la historia. Pero el hecho de medir sus fuerzas con la política nacional decepcionó al mismo movimiento. Aunque el movimiento entró en coalición con un partido político, no podía prevenir el fracaso electoral que experimentaron. Sus demandas fundamentales por la titulación de terri-

017

torios siguen siendo otro desafío para el movimiento, también bajo el nuevo gobierno encabezado por el ex dictador, Hugo Banzer. Y aunque la lucha por sus derechos territoriales evidentemente parece ser un largo camino, el movimiento da algunos pequeños pasos obteniendo logros concretos.

Las elecciones nacionales

Las elecciones nacionales planificadas para el primero de junio de 1997 originaron elevadas expectativas dentro del movimiento indígena: desde los fines del 1996 y todo el 1997 hasta la fecha de las elecciones, el movimiento representado por CIDOB (Confederación de Pueblos Indígenas del Oriente, Chaco y Amazonía) dio alta prioridad a la discusión y a la búsqueda de consenso sobre la participación indígena. El movimiento fue animado a participar debido probablemente a los buenos resultados obtenidos en las elecciones municipales en diciembre de 1995, donde cerca de 20 indígenas fueron electos como concejales municipales en las tierras bajas.

Debido a las reglas de participación en las elecciones, el movimiento tenía que participar a través de una alianza con un partido político. CIDOB estableció un pacto con el partido Movimiento Bolivia Libre (MBL) con Marcial Fabricano (presidente de CIDOB) como candidato para la vicepresidencia. El MBL fue el único partido que satisfizo las demandas de CIDOB, por ej., otorgándole el puesto de vicepresidente.

Pero no se logró consenso dentro del movimiento indígena, y después de haber entrado en el pacto con el MBL continuó la discusión interna hasta la fecha de las elecciones. Otra opinión dentro del movimiento era la necesidad de presentar candidatos indígenas para diputados a través de diferentes partidos, para de esta manera tener más probabilidades de ganar en un contexto local. Por eso, a nivel local se hicieron otras alianzas (con el Movimiento de Izquierda Revolucionario [MIR] y el Movimiento Nacionalista Revolucionario [MNR]), que obviamente tuvieron impacto en los resultados.

Los resultados de las elecciones fueron pobres para los pueblos indígenas: la alianza solamente obtuvo un 3% de los votos, y el MBL

sufrió una pérdida contundente a nivel nacional. Fue electo un solo diputado indígena: Vicente Pessoa del pueblo Chiquitano, a través del partido MNR. El derrumbe de la estimada fuerza estratégica y política que habría podido tener el movimiento indígena de las tierras bajas a nivel nacional, a pesar de ser una población relativamente pequeña, es una herida profunda. Sin embargo, se puede decir que si bien el sentimiento inicial fue de derrota, esto abrió un poco la puerta para el reconocimiento y la aceptación del carácter heterogéneo del movimiento indígena y de la necesidad de crear alianzas con otros sectores sociales partiendo de situaciones similares, tanto a nivel local como a nivel nacional.

El ambiente político estababa relativamente en favor del movimiento indígena bajo el gobierno anterior, y en el programa de reformas fueron incluidas varias aspiraciones indígenas. El contacto entre CIDOB y la Subsecretaría de Asuntos Étnicos (SAE) y otras instituciones gubernamentales fue frecuente. El gobierno aceptó a CIDOB como la portavoz directa de las demandas y reivindicaciones de los pueblos indígenas.

El nuevo gobierno encabezado por el ex dictador (1971-78) Hugo Banzer, de Acción Democrática Nacionalista (ADN), cambió el estatus de la SAE a un viceministerio: Viceministerio de Asuntos Indígenas y Pueblos Originarios (VAIPO). Eso podría considerarse como un indicio de querer otorgar más importancia a los asuntos indígenas, pero durante los primeros nueve meses el contacto con CIDOB ha sido muy esporádico. El plan del gobierno casi no hace referencia a los asuntos indígenas, solamente expresa un intento para promover un "desarrollo con identidad" para la población indígena.

La lucha por los territorios

Uno de los desafíos mayores para el movimiento indígena en el presente gobierno es obtener los títulos de sus territorios. Y esa es precisamente la preocupación principal del movimiento indígena por el momento.

La ley nacional de tierra -la Ley INRA- de 1996 concedió a los indígenas ocho territorios con títulos, los cuales les habían sido asigna-

dos anteriormente pero sin títulos. Además, la INRA concedió títulos a 16 territorios más dentro de 10 meses, lo cual ha sido imposible de cumplir.

Todavía se está en el proceso de titulación. Y la extensión de los territorios que los indígenas han demandado todavía no queda clara. Antes de la titulación se haría un saneamiento de los territorios, es decir, se aclararían las posesiones de tierra, las cuales en muchos lugares son un caos total. Varias personas pueden tener títulos sobre la misma tierra: ganaderos, colonos y especuladores de tierra, los llamados *terceros*. Para evitar que el Estado revoque su derecho a la tierra, los dueños tienen que comprobar que su tierra cumple una función económico-social. Es decir, que la tierra será usada y no estará dedicada a la especulación de tierra. Si los terceros que quedan después del saneamiento reducen esencialmente el tamaño de los futuros territorios, el Gobierno se ve obligado a través la Ley INRA a compensar a los indígenas con otra tierra.

Antes de la titulación final también se harán estudios de necesidad para cada uno de los territorios. Los estudios tendrán que documentar, que los indígenas necesitan la tierra que pretenden.

Este proceso de titulación parece muy problemático y es sensible a la manipulación política. Los estudios, que son una condición importante para todo el proceso de saneamiento, todavía -16 meses después de la aprobación de la ley- no están realizados. Siendo la voluntad política para beneficiar a los intereses indígenas aparentemente limitada, este proceso puede muy fácilmente consolidar la posición de los grandes terratenientes, que a menudo tienen documentación falsa sobre la tierra. Algunos temen que el interés principal del Gobierno sea asegurar legalmente el derecho de propiedad para promover inversiones, mientras que la posible distribución de tierra según la ley no sea puesta en práctica.

Protección de los conocimientos tradicionales

La lucha por la tierra y el territorio es la prioridad principal para los indígenas de Bolivia. Pero junto con la conquista del territorio va la lucha por la legislación y el debate actual sobre los derechos intelec-

tuales que es parte de esta lucha. Existe una creciente presión por parte de los cazadores de genes, p.ej., empresas farmacéuticas e investigadores, que van en búsqueda de recursos biológicos a los territorios indígenas. Para evitar conflictos directos con las agencias estatales y empresas extranjeras que entran en sus territorios, los pueblos indígenas de las tierras bajas han decidido participar activamente en el debate y en la elaboración de normas sobre el acceso a los recursos genéticos y la protección del patrimonio indígena.

CIDOB ha participado en la elaboración de un reglamento boliviano para regular el acceso a los recursos genéticos: plantas, animales y microorganismos. El reglamento garantiza el reconocimiento de los conocimientos que tengan los pueblos indígenas y comunidades campesinas sobre estos recursos; cuando a alguien -puede ser instituciones y empresas bolivianas o extranjeras- le interesa y quiere tener acceso a los recursos biológicos en sus territorios. El Gobierno promete establecer mecanismos que garanticen la participación en los beneficios derivados de los recursos genéticos a través de las organizaciones representativas. También promociona la idea de la participación de co-investigadores indígenas en las investigaciones de las instituciones. CIDOB ha aprovechado esta coyuntura favorable para las demandas indígenas, aunque no todas las observaciones del movimiento indígena fueron tomadas en cuenta. Además, hace falta ver la reglamentación en acción. El reglamento se aprobó en julio del 1997 y todavía no ha habido un caso que involucrara recursos sobre los cuales los indígenas tuvieran conocimiento.

Como parte del tema del acceso a los recursos genéticos, CIDOB está realizando actualmente un estudio a nivel nacional sobre la protección de los conocimientos tradicionales. No solamente sobre los conocimientos sobre plantas y otros recursos biológicos sino también sobre los conocimientos en todas sus manifestaciones culturales indígenas: artesanía, cantos, mitos, etc. Se trata de establecer un régimen especial que proteja efectivamente los derechos intelectuales colectivos de las poblaciones indígenas en todo el territorio boliviano. El estudio va a presentarse a la Comunidad Andina con el objetivo de buscar un régimen especial a nivel andino.

Elecciones municipales en el 1999

El movimiento indígena ya está haciendo preparativos para las últimas elecciones de este milenio: las elecciones municipales de diciembre de 1999. Diferentes organizaciones indígenas preparan su participación dentro de los espacios políticos municipales a través de la formación para concejales y alcaldes. Las perspectivas son muchas, y simultáneamente los pueblos indígenas están haciendo cabildeos en favor de una modificación de la ley y reglamentación municipal para evitar la situación actual que implica un cambio casi anual de alcaldes.

BRASIL

El año 1997 no fue favorable para los pueblos indígenas de Brasil. De las 27 homologaciones de áreas indígenas firmadas con gran solemnidad por el gobierno, el 3 de noviembre de 1997, 17 estaban esperando la firma desde hacía un año y medio, revelando la falta de compromiso de las autoridades por los plazos establecidos. Al mismo tiempo, otras 56 áreas indígenas que esperan su homologación, se encuentran bloqueadas también por falta de voluntad política.

Igualmente el gobierno evidenció su falta de interés por los pueblos indígenas, destinando sólo 3 millones de dólares para la demarcación de tierras y ningún fondo para las tareas de identificación de tierras. Hay que tomar en cuenta que, según la Fundación Nacional del Indio (FUNAI), todavía quedan 179 áreas para identificar y que el plazo establecido para concluir todas las demarcaciones de áreas indígenas expiró en octubre de 1993...

El decreto 1775/96, según denuncias del Centro Indígena Misionero (CIMI), sirvió sobre todo para invalidar nuevas demarcaciones, estimular las invasiones de tierras indígenas y poner en riesgo las áreas ya demarcadas que esperan la finalización de su proceso. Los 70 kat*itaurlü*, un grupo *nambiquara* del valle del Guaporé, en Mato Grosso, vieron como su territorio de 67.000 has. era invadido por 8.000 garimpeiros que instalaron mil dragas e infinidad de camiones para prospectar y extraer oro del subsuelo. Presionado por la opinión pública internacional, el gobierno consiguió retirar a los invasores, pero ésta área, que era una de las mejores conservadas de la región, se trans-

formó en un paisaje lunar con barrancos y cráteres de 20 metros de profundidad. Mientras tanto los garimpeiros esperan poder regresar a esta área.

Mientras varias empresas asiáticas invirtieron durante 1997, 500 millones de dólares en el sector brasileño de la madera, la extracción ilegal de madera noble afecta al 80% de las áreas indígenas, generando violentos conflictos entre madereros e indígenas. El IBAMA (Instituto Brasileño del Medio Ambiente) denuncia a algunas empresas, pero la mayoría cuentan con autorizaciones del gobierno federal y el apoyo de muchos políticos locales.

Los indígenas que hacen acuerdos con los madereros para la extracción de madera, reciben sumas ridículas. En el caso del pueblo

Hombres yanomami, Brasil (Foto: Alejandro Parellada).

kay*apó gorotire*, recibieron el 4 % del valor de la caoba extraída por madereros de su territorio.

El gigantesco incendio de Roraima arrasó a 37.000 km2 de regiones de sabana y bosques. El área y*anomami* fue afectada en la parte sur del río Catrimani, causando grandes perjuicios a éste territorio indígena.

También grandes proyectos hidroeléctricos amenazan a ecosistemas y pueblos indígenas de Brasil. Las compuertas de la represa Serra da Mesa, en Goiás, serán cerradas e inundarán el área donde viven los indígenas av*a-canoeiro*, haciendo peligrar su existencia. Por otro lado, tanto indígenas como grupos ambientalistas denunciaron el proyecto de la hidrovía Paraná-Paraguay que provocará grandes trastornos en el frágil complejo del Pantanal, en los ríos tributarios y para todos los pueblos indígenas de la región que dependen sumamente de los recursos de los ríos.

La negligencia, la falta de recursos e interés por la asistencia sanitaria, causaron varias muertes en 1997. Los casos de SIDA comenzaron a aparecer en algunas áreas indígenas y en el Estado de Pará el 95% de los 127 indígenas a*rara*, en contacto con la sociedad nacional desde hace apenas 12 años, están infectados de blenorragia, trasmitida por el contacto sexual con la población mestiza local. El CIMI pidió asistencia médica urgente, pero la Coordinadora de Salud del Indio envió un sólo medico durante seis días...

El 20 de abril de 1997, Día del Indio, fue manchado por asesinatos y violencia. Un ejemplo es el caso de Galindo, miembro del pueblo p*ataxó*, quien fue quemado vivo cuando dormía en una parada de autobús de Brasilia. Los cinco jóvenes que cometieron el crimen pertenecen a la élite local y declararon que lo hicieron "por diversión".

Algunos grupos indígenas consiguieron quedarse al margen de la violencia y agresiones. Fue el caso de los e*nauené-naué* de Mato Grosso. Este pueblo, de 260 personas, consigue aunque con dificultad, consolidar su territorio de 752.000 has., homologado en 1996 y limitar los problemas de invasión sobre sus tierras.

PARAGUAY

El año 1997 no ha sido la excepción de los últimos vividos en el presente proceso de transición democrática, desde la apertura política en el año 1989, luego de casi 35años de dictadura militar. En efecto, las prioridades del gobierno han continuado en el orden político electoral y en la renovación de todo el aparato burocrático del Estado.

Este proceso, enervado por una aguda confrontación en las esferas de poder entre sectores antagónicos del Partido Colorado, se desenvuelve en el marco de una profunda crisis del modelo capitalista dependiente, sacudido por la quiebra de numerosos bancos y financieras, el cierre de empresas del pequeño parque industrial existente y el alza desmedida del precio del dólar.

En este contexto, las demandas sociales se han incrementado progresivamente, incluida la indígena, cuyo contenido esencial siguió siendo el de la restitución de sus territorios tradicionales, así como una mayor asistencia en materia de salud y educación. Tampoco estuvo ausente el reclamo de una mayor transparencia en el manejo de los fondos públicos por parte del INDI, institución que fue seriamente atacada por hechos de corrupción denunciados, incluso, en los estrados judiciales.

A raíz de las reiteradas denuncias de irregularidades expresadas, tanto por indígenas como por indigenistas contra la administración del INDI encabezada por Valentín Gamarra, el Presidente de la República, Ing. Wasmosy, se vio obligado a destituirlo remplazándolo por un conspicuo dirigente del partido oficialista, carente de formación en el tema, pero leal a los intereses del grupo gobernante en el Paraguay, el Sr. Julio Colmán.

No obstante este difícil panorama, los indígenas han protagonizado luchas sectoriales de inmenso valor ejemplificador para el resto de los pueblos indígenas (caso de los *enxet-angaité* de Coraí, de los *enxet-lengu* de Sawhoyamaxa y de los *enxet-sanapaná* de Keyleyphapopyet y Lamenxay), al implementar nuevas formas de presión contra el Gobierno con el objetivo de agilizar la solución de distintos casos.

Uno de esos es la ocupación de una céntrica plaza pública de Asunción durante trece días por parte de unos 70 indígenas de la Comu-

525

nidad Corai del pueblo enxet-angaité; estos indígenas en ese tiempo, además de la ocupación de dicho predio municipal, realizaron numerosas manifestaciones por el microcentro capitalino reclamando el pago de la indemnización por las 15.000 hectáreas de tierra reivindicadas a los propietarios afectados por la misma de tal modo de asegurar la recuperación plena de sus dominios sobre los inmuebles en cuestión. El objetivo de la medida de protesta se logró y este hecho se transformó en un importante hito en las históricas aspiraciones indígenas.

Otro hecho de enorme repercusión fue el protagonizado por los indígenas enxet-lengua de Sawhoyamaxa. Esta comunidad tras largos años de sometimiento en un establecimiento ganadero chaqueño, decidió abandonar masivamente el asiento de su precaria aldea, tolerada apenas por los dueños del lugar, para desplazarse luego hacia la tierra reivindicada por ellos y ocupar la franja de dominio de la carretera frente mismo a su antiguo hábitat, en plena vía pública, mientras dure la tramitación de un debatido proyecto expropiación que se espera favorezca a los indígenas en su anhelo de lograr la restitución de unas 14.000 hectáreas de tierra que se encuentra actualmente en discusión en la Cámara de Diputados del Congreso.

En apariencia estas medidas de presión no tienen nada de extraño, pero si las ubicamos en un contexto en donde estas prácticas son casi exclusivas de los campesinos paraguayos, y de otros grupos sociales, y no de los indígenas quienes desde hace mucho tiempo se han limitado a esperar pacientemente sus reclamos, podremos pensar que tal vez sea el inicio de la implementación de nuevas formas de lucha por parte de los mismos, quienes empiezan a ser los verdaderos protagonistas en búsqueda del reconocimiento de sus derechos por parte del gobierno paraguayo que administra un Estado pluricultural y multiétnico.

Siguiendo en la línea de la reivindicación territorial, otro caso de singular trascendencia fue el promovido por los enxet-sanapaná de las comunidades de Keyleyphapopyet y Lamenxay, quienes por primera vez en su calidad de pueblos indígenas, a través de sus representantes Tierraviva CEJIL, acudieron ante la Comisión Interamericana de Derechos Humanos de la O.E.A. con el objeto de pedir a este organismo su intervención ante el Gobierno paraguayo por el incumplimiento de tratados internacionales sobre pueblos indígenas suscritos por el país.

Felizmente la tramitación de este caso, en tal alta esfera internacional, culminó con el compromiso del Gobierno paraguayo de adquirir unas 21.000 hectáreas reivindicadas por estas comunidades para su posterior restitución a título gratuito de las mismas, es decir, a los indígenas del pueblo enxet-sanapaná, ya a comienzos de 1998.

Uno de los casos más significativos de restitución de tierra operado en el año 1997 fue la devolución de unas 100.000 hectáreas a una comunidad *ayoreo totobiegosode*, de las 600.000 que reivindica desde hace ya varios años. Esta comunidad, que está conformada por un subgrupo completamente selvícola (el último del Paraguay), a través de sus líderes y de las instituciones que le apoyan, es el sujeto de la mayor reivindicación de tierras en el país.

Situación indígena en la Región Oriental

En esta región del país, el problema generado por la escasez de tierra también afecta a los indígenas, pero con un componente aún más delicado: el avasallamiento por parte de los campesinos paraguayos quienes también sufren la falta de tierra y que en muchas ocasiones han ocupado tierra indígena.

Es así que el acuciante drama de los campesinos sin tierra, al que se le suma la indiscriminada tala de bosques como consecuencia del impune tráfico de troncos al Brasil afectó a varios pueblos indígenas, especialmente a los *mbya, guaraní ñandeva* y los *pai tavytera*.

El gobierno en su afán de "solucionar" los conflictos generados entre campesinos e indígenas, y entre los mismos indígenas, en algunos casos, como ocurrió en Acaray-mi, distrito de Hernandarias, Departamento de Alto Paraná, ha apelado a la llamada Policía Ecológica y Rural, que en cada intervención ha llevado más bien zozobra e incertidumbre a varias comunidades indígenas. La presencia de los uniformados en las aldeas quebranta y violenta la cultura nativa y el propio estatuto de las comunidades indígenas, que ampara a los mismos en su libre determinación para regirse por sus propias leyes y pautas ancestrales.

CHILE

Para comprender mejor lo sucedido en Chile con respecto a los pueblos indígenas durante 1997, es pertinente tener en consideración al menos, dos aspectos que están relacionados. El primero tiene relación con la variedad y la amplitud de las asociaciones indígenas, tanto en las áreas urbanas como rurales. La otra consideración nos remite a la influencia del proceso de discusión, promulgación y aplicación de la Ley Indígena en las relaciones establecidas entre los pueblos indígenas y el Estado chileno.

Desde las particularidades del momento actual, se identifican las diferencias entre aquellas asociaciones indígenas, que se autodefinen como "instituciones", que han articulado las actividades de desarrollo, con el apoyo a las "organizaciones"; y las propias organizaciones que se colocan como representativas de los intereses y demandas de los indígenas: sean estos en su condición de estudiantes, hombres, mujeres, campesinos, o trabajadores en las ciudades.

Contexto previo

Durante el período del régimen militar, y particularmente desde 1979 hasta 1989, los indígenas organizados convocaron a la no-división de las "comunidades", posicionándose la mayoría como contrarias a la continuidad del régimen. Tuvieron una capacidad de convocatoria muy diversa, y no pudieron impedir la aplicación de las medidas gubernamentales. No obstante, se coordinaron para establecer un acuerdo con la Concertación, que sería posteriormente gobierno. Desde 1990, la mayoría se articula para la discusión del proyecto de ley indígena, y convoca con relativo éxito a sus miembros y sectores de influencia, participando en tal proceso, dirigido por la Comisión Especial de Pueblos Indígenas-CEPI.

Desde la promulgación de la Ley Indígena (fines de 1993) y hasta los inicios de 1997, en un período de casi 4 años, los líderes de la mayoría de las organizaciones, se vincularon de diversas formas a la puesta en práctica de la política indigenista del gobierno chileno, a través de la Corporación Nacional de Desarrollo Indígena-CONADI.

528

Se puede decir que, a partir de 1993, las organizaciones no convocan para las acciones contestatarias ni reivindicativas, y cuando algunas lo hacen, es en baja escala. Las acciones directas, ajenas a las acciones del gobierno, disminuyen hasta casi extinguirse. Pero, la socialización y la activación de diversos conflictos "territoriales", así como la desconformidad por los resultados de las acciones desde la CONADI, llevaron a un aumento de la coordinación de las "instituciones", así como a la formulación de críticas abiertas y públicas por parte de los líderes de las "organizaciones", lo que se manifiesta con fuerza durante 1997.

La situación en 1997

De los pueblos australes: los *kawaskar* (*alacalufe*), *aonikenk* (*tehuelche*) y *selknam* (*ona*), cuya descendencia no supera el centenar de familias, son los primeros que mantienen un nivel de organización, para demandar el apoyo de la CONADI, en las iniciativas de recuperación cultural e inversión económica en baja escala.

El pueblo *aymara* (48.000 aprox.), transita de las comunidades andinas a las ciudades de los valles y de la costa del norte. La vigencia del Código de Aguas del año 1981, ha permitido el control de sus fuentes y cursos de agua, por parte de las compañías mineras. No obstante la crisis de la pequeña y mediana minería, que redujo personal de manera drástica desde mediados de 1997, los derechos de aguas no han sido restituidos a los aymara.

Por su parte, el pueblo *rapa nui* (21.000 aprox en la Isla y el continente), es restringido en sus derechos políticos y económicos, al no reconocérseles la autoridad del Consejo de Ancianos y al no permitírseles un control directo del flujo turístico.

El pueblo *mapuche*, (más de un millón) se activó de muchas maneras durante el pasado año. Así es como las diversas asociaciones realizaron entre abril y julio de 1997, 3 Asambleas Generales Extraordinarias del Pueblo Mapuche, siendo el tema central: "los conflictos territoriales".

En ese período, el gobierno cambia los directivos de la CONADI; la CONAMA resuelve a favor del Proyecto Ralco de la ENDESA.

529

Estos hechos movilizaron la articulación de los mapuches que participan de las asociaciones con otros mapuches que forman parte de órganos públicos, o son estudiantes, o profesores. Se dan condiciones que aumentan la convocatoria: asambleas con 200 delegados, 100 delegados, reuniones de asociaciones comunales de comunidades, coordinación para el apoyo de los mapuches afectados por las consecuencias de los proyectos.

Por su parte, la CONADI apoya y promueve la realización de un Congreso Nacional Mapuche, lo que permite mantener el diálogo y las negociaciones con sectores del movimiento mapuche. Sin embargo, en los últimos meses del año, algunas situaciones de conflicto entre comunidades y empresas, llevan a endurecer las posiciones del gobierno central y regional, los cuales aplican leyes restrictivas para impedir el aumento de tales acciones.

El apoyo de sectores del gobierno al proyecto Ralco de la ENDESA, la construcción de la carretera de la Costa, la ampliación de la Carretera Central ("By Pass" a Temuco), la apropiación de tierras por empresas forestales, el control de aguas por compañías mineras, son algunas de las situaciones que están dando cuenta de una problemática profunda, que no está siendo resuelta ni de manera democrática, ni justa, y se trata de la puesta en discusión de los derechos territoriales y de los derechos de los grupos indígenas como pueblos.

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ARGENTINA

Pese a que subsisten en Argentina las violaciones a los derechos indígenas, hubo durante 1997 algunos acontecimientos que merecen la pena comentarse. En primer lugar, el desarrollo del Programa de Participación de Pueblos Indígenas (PPI) que tuvo varias etapas y facetas. Surgido de la necesidad de dar contenido efectivo a los derechos indígenas reconocidos en la Constitución Nacional reformada en 1994, el programa fue una masiva movilización de casi todos los pueblos indígenas, sus organizaciones y comunidades. En reuniones sucesivas los participantes indígenas hicieron un pormenorizado análisis de la situación que, aún con variabilidad, actualmente comparten, debido a razones históricas de sometimiento a un sistema económico, político y cultural ajeno.

Tomando como base este diagnóstico redactaron sus demandas al estado con miras a construir otras bases para una nueva relación entre éste y los pueblos indígenas. Las actividades culminaron en un Foro Nacional Indígena, con la asistencia de más de cien representantes de comunidades y organizaciones, quienes tras siete días de trabajo elaboraron un documento que fue entregado a los legisladores en el Congreso Nacional.

A pesar de la diversidad de culturas y pueblos que por primera vez se reunían para discutir asuntos de su exclusiva competencia, se puede

decir que, aunque con tibieza, se logró construir una plataforma común de reivindicaciones en torno a tres conceptos básicos: pueblo indígena, territorio, organización.

A su vez la variabilidad de procesos regionales de conquista y colonización determinaron situaciones particulares a algunos pueblos indígenas, comunidades y organizaciones, lo que dio lugar en el Foro a la existencia de opiniones no concordantes. En algunos estados provinciales, la falta de tierras fiscales o privadas en cantidad suficiente obligó a los participantes a realizar esfuerzos imaginativos para hacer una propuesta capaz de satisfacer igualmente a las familias indígenas que hoy viven en centros urbanos y rurales, sin menoscabar su reivindicación por derechos territoriales.

De aquí en más, uno de los mayores desafíos que los pueblos indígenas deberán enfrentar es el de mantener un frente común de organización en la diversidad, anclada en tales reivindicaciones. Una organización tal que les permita ejercer control sobre las acciones que el Estado lleva a cabo en relación con los asuntos que afectan la vida y el futuro de los pueblos indígenas.

Debido a que se deben dictar leyes para hacer efectivos los derechos consagrados en la Constitución Nacional deberán tener especial cuidado a fin de evitar que los legisladores no indígenas modifiquen en parte o totalmente los puntos de vista de los pueblos indígenas contenidos en el Documento del Foro Nacional.

Entretanto, la dirigencia deberá mantener un permanente diálogo con las autoridades estatales buscando promover en ellos un cambio de actitudes desde la remanida tutela y clientelismo político a otra de mutuo respeto y reconocimiento de la plena participación indígena.

Ciertamente, quedaron muchas cosas por debatir. Entre ellas un tema clave es el peligro de manejo/manipulación que se oculta tras la benéfica cara de los programas/planes/proyectos de desarrollo que agencias financieras internacionales, cada vez más, ponen a disposición del estado nacional y las provincias a través de sus agencias indigenistas. Está aún pendiente la realización de una concienzuda evaluación de costos y beneficios en relación con las reivindicaciones que proyectan los pueblos indígenas por parte del movimiento indígena en Argentina.

Desoídos sus reclamos y demandas durante cientos de años, excluídos -como han estado- del proceso de toma de decisiones en todos los temas que les afectan, sin duda las necesidades materiales de los miembros de las comunidades de los pueblos indígenas son muchísimas.

Pero no es folklorizando a los pueblos indígenas o mercantilizando los rasgos materiales de su distintividad cultural como se efectiviza el "reconocimiento a su identidad étnica y cultura" sino concretando acciones definitivas en torno a las demandas de justicia por ellos efectuadas en todo cuanto hace a su modo de ser diferente y querer seguir siéndolo, para ser iguales ante la ley.

En este sentido resta mucho camino por recorrer desde ambos polos. Creatividad para encontrar formas de organización capaces de construir la unidad en la diversidad para conseguir los objetivos trazados es el reto que hoy enfrenta la dirigencia indígena. ¿Y del lado del Estado? Abrir verdaderamente los espacios políticos donde los pueblos indígenas como entidades culturales y políticamente autónomas puedan expresar, proyectar, manejar y controlar las formas de desarrollo futuras acordes a sus principios y deseos.

Más o menos junto al desarrollo del PPI se realizó un programa financiado por una donación del Banco Mundial otorgada por el Fondo Para el Desarrollo Institucional (IDF Grant for Indigenous People in Argentina), implementado localmente por el Centro Nacional de Organizaciones Comunitarias (CENOC) de la Secretaría de Desarrollo Social de la Nación. El objetivo del programa era la capacitación para el "fortalecimiento de instituciones y comunidades indígenas con el fin de mejorar su participación en la toma de decisiones en proyectos autogestionados, gubernamentales y aquellos financiados por el Banco Mundial".

En lo específico estaba dedicado a la "capacitación para el planeamiento, ejecución y evaluación de proyectos de etnodesarrollo, fortalecimiento de la red de instituciones representativas de los pueblos indígenas y fortalecimiento de la relación entre estos, el Gobierno y el Banco Mundial en lo que respecta a los proyectos de desarrollo".

Tanto por el monto asignado al programa como por el foco de atención centrado en el desarrollo, el programa necesariamente no podía

538

alcanzar a los miembros de las comunidades indígenas, sino sólo a unos cuantos dirigentes entrenados. En la práctica, la puesta en marcha simultáneamente con el PPI produjo confusión y fragmentación en el movimiento indígena. Sin duda, un breve ejemplo de lo anticipado más arriba.

En otro plano, hay que destacar que, con los peligros ya señalados, el Instituto Nacional de Asuntos Indígenas, a la par que implementa acciones concretas en lo referido a la atención de necesidades comunitarias -agua, becas, huertas-viviendas-, también contribuyó a la creación de confusión y fragmentación en el movimiento indígena, institucionalizando -mediante un recurso administrativo de la Secretaría de Desarrollo Social de la Nación- la personería jurídica de la comunidad indígena.

Resulta difícil creer en la inocencia del Poder Ejecutivo de la Nación, cuando a través de tres de sus agencias pone en práctica simultáneamente tres programas/proyectos que aumentan el desconcierto y, posiblemente, retardan la concreción de las expectativas indígenas en torno a sus reivindicaciones. La Secretaría de Desarrollo Social de la Nación, a través del INAI, financió el PPI. El Instituto Nacional de Asuntos Indígenas (INAI) sin esperar el resultado de las deliberaciones indígenas en el PPI decidió inconsultamente la implementación de la Personería Jurídica de las Comunidades Indígenas según un modelo diseñado por los técnicos del organismo estatal y está ejecutando un programa de entrega de estas personerías en todo el país. Por último, el CENOC, también dependiente de la Secretaría de Desarrollo Social de la Nación, implementó el programa de capacitación del Banco Mundial.

Para poder intentar, entonces, una evaluación de lo acontecido durante el año en torno al respeto de los derechos indígenas en Argentina, veamos ahora qué fue de algunos de los conflictos paradigmáticos de la lucha indígena.

En el Chaco Salteño la Asociación de Comunidades Aborígenes Lhaka Honhat que nuclea a cinco pueblos diferentes (*komlek, iyojwaja, nivacklé, wichí, tapy'y*) sigue sin ser recibida por el gobernador de la provincia de Salta para buscar una solución a su reclamo del título de propiedad de su territorio. Transcurrido un año luego de la ocupa-

ción pacífica del puente internacional entre Misión La Paz (Argentina) y Pozo Hondo (Paraguay) y el compromiso escrito asumido por el Gobierno local de entregar la tierra a indígenas y criollos, subsiste el incumplimiento de las autoridades. No sin sorpresa, los casi 6.000 indígenas que viven en el lote fiscal 55, recibieron la noticia de que la Corte Suprema de Justicia de la Nación había rechazado su apelación de queja frente al recurso de amparo denegado por la Corte de Justicia salteña. Resta pues continuar la lucha judicial con la presentación del caso ante la Corte Interamericana de Derechos Humanos.

Mientras tanto, el deterioro ambiental en este territorio se agrava tanto para indígenas como para criollos. Pero el agua se ve cada vez más restringida para las familias indígenas que compiten en su uso con los vacunos de los criollos. Los alambrados que los criollos tejen en torno a "sus" pretendidos dominios, clausuran las aguadas. Con amenazas y armas se niega a las mujeres el libre paso para la recolección del fruto del algarrobo. El río Pilcomayo, fuente de provisión abundante de pescado, sufre repetidamente amenazas de contaminación por derrame de sustancias tóxicas provenientes de minas en el país vecino -Bolivia-. Y las condiciones sanitarias de desnutrición infantil parecen ya no importar a las autoridades. Se habla de urbanización inminente en la zona del puente, de planes inmobiliarios privados, de trazado de rutas en el territorio indígena, de proyectos de desarrollo en el Mercosur. Y los indígenas se preguntan "¿hasta cuándo tenemos que seguir esperando?".

En el mes de noviembre Survival International realizó en diarios europeos una campaña internacional en apoyo de las reivindicaciones indígenas demandando justicia al Presidente de la Nación. Esta solidaridad, clave para el mundo indígena en países como Argentina, donde se pretende con argumentos espurios soslayar el cumplimiento de la ley, irritó mucho a las autoridades nacionales, quienes parecieron inicialmente interesadas en mediar en el conflicto. Sin embargo, el gobernador de la provincia de Salta persiste en desoír a unos y otros. ¿O será que la voz de estos últimos -autoridades nacionales- no grita alto?

En este estado de cosas la esperanza de la Asociación Lhaka Honhat se concentra en mantener su unidad organizativa, un frente de lucha

compartido, para resistir la voluntad perversa del estado provincial de "esperar hasta que se cansen" mientras buscan fragmentar a las comunidades comprando el silencio de sus dirigentes con prebendas y favores personales.

En la misma provincia de Salta, otro conflicto por derechos territoriales usurpados sigue siendo motivo de protestas y denuncias del pueblo *kolla*. Cuatro comunidades, San Andrés, Los Naranjos, Río Blanquito y Angosto de Paraní, han sido acosadas judicialmente por el delito de reclamar justicia. El primero de junio de 1997 dirigentes de la comunidad Kolla Tinkunaku fueron detenidos por personal de la policía provincial en la puerta misma de su sede, acusados de perturbación del dominio, formulada por el Ingenio y Refinería El Tabacal S.A. y Seaboart Corporation. El conflicto se retrotrae al año 1986 cuando mediante un decreto gubernamental la provincia acepta la donación de 79.000 hectáreas del ingenio San Martín de Tabacal para las comunidades indígenas, quedando libre una franja de tierra que pasa a ser de propiedad de la multinacional Seaboart cuando el ingenio le vende sus acciones, sin tener en cuenta los derechos territoriales del pueblo kolla que abarca incluso esta superficie.

No satisfecho con la represión llevada a cabo por personal especialmente entrenado de la Seaboart Corporation, la respuesta del estado provincial fue, como en otros casos, el acoso judicial. Sin embargo, la persecución y encarcelamiento de sus dirigentes no ha logrado frenar a las más de 350 familias kollas que continúan realizando marchas de protesta tanto a Buenos Aires como a Salta para reivindicar sus legítimos derechos. Una intervención directa del Instituto Nacional de Asuntos Indígenas logró que la Seaboart retire su personal de la zona, pero no ha podido frenar sus planes colonialistas que se siguen concretando en la tala indiscriminada de árboles con la consiguiente erosión de suelos y pérdida de pastizales indispensables para el ganado de este pueblo de pastores y cultivadores.

Mucho más al sur del país, el pueblo *mapuche* también es procesado por la justicia de la provincia de Neuquén por el delito de usurpación en su propio territorio. Luego de acordar la formación de una "mesa de diálogo" entre el Secretario de Desarrollo Social de la Nación, el Gobernador de la Provincia y las autoridades originarias mapu-

che de las comunidades Salazar, Ñorkinko, Ruka Choroy, Puel, Catalán y Currumil, estas últimas fueron dejadas al margen. Como expresa un comunicado de la Coordinación de Organizaciones Mapuche, la mesa para definir el futuro de los Mapuche y su territorio en Pulmari "¡es una mesa ...sin mapuches!", los cuales sólo serán convocados para conocer las decisiones que las autoridades nacionales y provinciales tomen a espaldas de ellos. Mientras tanto, sigue diciendo el documento, "ha continuado el incesante desfile de mapuches por los Juzgados de Instrucción de Zapala, miembros de las comunidades Salazar, Aigo, Norkinko y Puel".

Paradójicamente, la denuncia mapuche de "corrupción y enriquecimiento"contra el directorio de la Corporación Interestadual Pulmari, efectuada dos años atrás, no prospera. Y las condiciones de vida de las familias mapuche empeoran: se prohibe a las comunidades hacer uso de sus zonas para invernada y veraneada, se retrasa, limita y restringe la disponibilidad de guías para obtener leña, un elemento clave en esta zona del país que tiene inviernos muy largos y de intenso frío.

A finales de año la mesa de diálogo se reúne en la zona y convoca a las comunidades para informarles de los futuros planes: un relevamiento integral del suelo y en relación con la distribución territorial se propone, como solución, revisar las concesiones otorgadas a los mapuches (sic) y no a los empresarios extranjeros y empresas mineras. A la fecha la situación es de frustración y escepticismo: numerosos mapuches procesados y más de veinte causas penales abiertas. Un profundo deterioro ecológico de las 110.000 hectáreas de Pulmari por un manejo irracional y descontrolado, entrega del lago Pulmari a un empresario extranjero donde la inversión no se detiene pese a la reivindicación mapuche de que este es un sitio sagrado, cementerio de sus antepasados y personajes valiosos para su historia como pueblo originario. Descreimiento de la ley y la justicia del estado a causa del accionar de sus autoridades y la comprobación de que el "diálogo" ha sido el instrumento empleado para desgastar "las voluntades y ... desmovilizar ..."

Finalmente, en este como en los anteriores casos la comunidad internacional ha reaccionado favorablemente pronunciándose de muchas maneras para demandar al estado que cumpla con sus obligaciones.

pero luego comprueba la ausencia de una voluntad decidida de su parte en favor de los derechos territoriales de los pueblos indígenas.

Mientras siguen los acosos ... los pueblos indígenas esperan que el Estado Nacional ratifique el convenio 169 de OIT y respete la ley.

URUGUAY

Indigenismo en el Uruguay

Según la versión oficial no queda en el territorio uruguayo ni comunidades indígenas organizadas ni memoria de ascendencia indígena. Somos, se afirma, un pueblo mayoritariamente formado por hijos de inmigrantes europeos. La realidad es más compleja.

La raíz afro de Montevideo es muy difícil de disimular. Sacude la conciencia verificar que los rasgos africanos son más frecuentes en los barrios pobres. Un Estado como el uruguayo, que vaciló décadas antes de abolir la esclavitud, tampoco hoy da igualdad de oportunidades a los afrouruguayos. Su sola presencia demuestra que el "pueblo constituido exclusivamente por inmigrantes europeos" es sólo una ficción racista. Por suerte la música popular uruguaya tiene una raíz afro inocultable.

Los hijos de los pueblos originarios tuvieron más facilidad que los negros para mimetizarse en una población que es predominantemente de cabellos y ojos oscuros.

Mimetizarse fue una necesidad de supervivencia de los indígenas desde que se inició el genocidio de Estado en 1831. Pero aún hoy, investigaciones sobre indicadores genéticos dan para la población uruguaya en su conjunto, urbana y rural, un 18% de ascendencia africana y un 16% de ascendencia de los pueblos originarios.

Y en cuanto a cultura viva, muchas prácticas económicas, tecnologías y rituales de los sectores populares son claramente mulatos o mestizos. Elementos de espiritualidad sincrética se viven en todo el país, aunque simplificando podríamos decir que predomina el sincretismo afro-europeo en la ciudad y el sincretismo indígena-europeo en el mundo rural y en varias ciudades pequeñas del interior.

Por otra parte, hay pequeñas comunidades *guaraníes* refugiadas en nuestro territorio. Prefieren no delatar su presencia, mimetizarse en

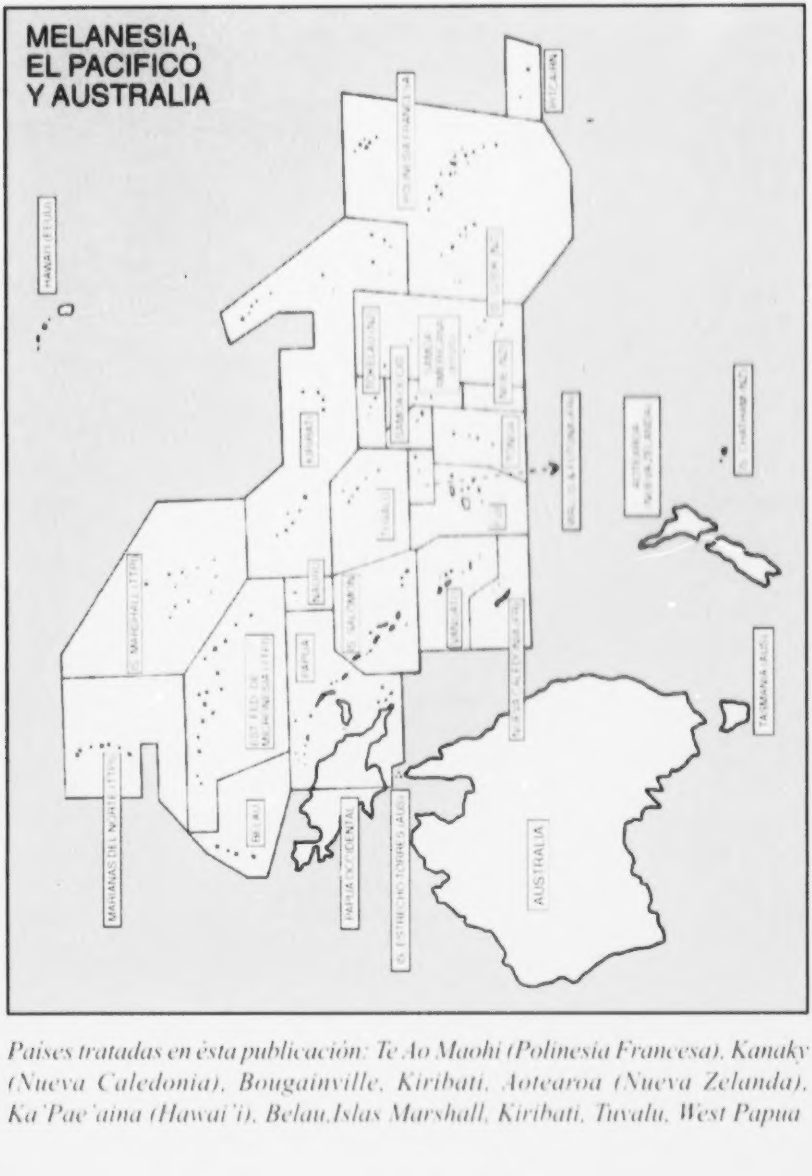
los sectores populares, pero sus rancheríos en la periferia urbana mantienen las tradiciones productivas y rituales con mucha pureza.

No hemos detectado en cambio comunidades *charrúas*, aunque sí centenas de descendientes charrúas que preservan prácticas medicinales tradicionales y costumbres religiosas asociadas.

Investigaciones recientes han descubierto templos cónicos de piedra de hasta dos metros de altura y nuevas pictografías que revelan que los pueblos originarios de la pradera desarrollaban una vida cultural mucho más compleja de lo estimado. Si le sumamos las investigaciones sobre agricultura "invisible" (sin roturación) manejo de ecosistemas y huertas de hierbas medicinales, cabe preguntarse por qué nunca se habló de esto en los textos de historia nacional. Concluimos que el mismo Estado que persiguió a nuestros pueblos originarios hasta casi exterminarlos se encargó de "devaluar" su cultura; los sobrevivientes por su parte procuraron silenciar su condición. Sólo en el breve período en que gobernó el líder popular independentista José Artigas (hasta 1820) la diversidad cultural fue respetada.

En el Uruguay existen dos instituciones indigenistas "históricas": La Asociación Indigenista del Uruguay y la Asociación de Descendientes de la Nación Charrúa. Recientemente se han formado otras tales como "Sepé" en Montevideo, "Ahijuna", "Desde el Adentro", "Berá", "Inchalá", "Guyunusa" y "Pirí" en el interior. Varias de ellas constituyen la "Federación Indigenista Artiguista Multiétnica" que trabaja en las siguientes direcciones:

- Defensa del patrimonio histórico y cultural de los pueblos originarios del Uruguay, incluyendo la memoria de los ancianos.
- Reclamo de repatriación de los restos de los hermanos charrúas llevados encadenados contra su voluntad y muertos en el extranjero como parte del genocidio de Estado durante el siglo XIX;
- Revisión de los textos de Historia Oficial, en su mayoría racistas;
- Apoyo a los pueblos originarios del continente y en particular a los que residen en nuestro suelo y a la diáspora charrúa en territorios vecinos.



Paises tratadas en ésta publicación: Te Ao Maohi (Polinesia Francesa), Kanaky (Nueva Caledonia), Bougainville, Kiribati, Aotearoa (Nueva Zelanda), Ka'Pae'aina (Hawai'i), Belau,Islas Marshall, Kiribati, Tuvalu, West Papua

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EL PACÍFICO Y AUSTRALIA

AUSTRALIA

La nueva política racial de Australia

Australia tendrá dos elecciones raciales en 1998. El gobierno nacional y el gobierno del estado de Queensland esperan que los sentimientos anti-aborígenes y sus planes de abolir el contenido de los derechos de los *aborígenes* e *isleños* del Estrecho Torres, recientemente reconocidos por la suprema corte, les otorgará la reelección. Por supuesto, estas campañas inflamarán aun más la tensión racial y harán un gran daño a la sociedad australiana. También establecerán un mal ejemplo, p. ej., en Asia, donde los pueblos minoritarios están ya bajo una intensa presión en nombre del "desarrollo nacional" o la "unidad nacional". Si un país europeo desarrollado y bien educado puede hacer esto a sus pueblos indígenas a pesar de los muchos avances de los derechos humanos desde 1945, otros lo van a seguir.

Asia es una importante audiencia para la política australiana. Cuando el gobierno de Howard se negó a firmar un tratado de comercio con la Unión Europea en 1997 debido a una cláusula estándar de respeto a los derechos humanos, fue hecho para ganar el apoyo de los gobiernos de China y del Sureste de Asia. No es de sorprender que los aborígenes de Australia temieron que también fuera una señal sobre cómo el gobierno tenía la intención de tratarlos en su propio país. Australia ha recibido mucha publicidad negativa sobre el tema en Europa. Cuando líderes aborígenes visitaron Europa en un viaje de conversaciones en 1997, el Primer Ministro lo condenó como una "maniobra", como antipatriótico. Mientras tanto, su propio gobierno y las más importantes industrias que explotan recursos, recogían ávidamente información internacional que ayudara a derrotar o adelantarse a las agendas indígenas de Australia.

En realidad, "maniobra" no es una mala forma de describir el estilo del gobierno de Howard. Australia puede estar estableciendo la norma para el uso de un teatro político barato sobre los temas indígenas (y muchos otros) para mantener a las encuestas, a los noticiarios diarios

de televisión y a la radio "contestataria" atentos y amigables mientras que el gobierno sigue silenciosamente con el negocio de re-encauzar la riqueza nacional hacia sus poderosos amigos políticos. El gobierno de Howard utiliza las quejas populares no como un indicador entre otros, sino como una importante fuente de asesoramiento político. En parte esto refleja que John Howard se siente incómodo con cualquier tema que no sea, apenas, los temas económicos, es decir, su desconocimiento es total. También, el trauma de su partido de estar tantos años fuera del gobierno unificó sus múltiples fracturas bajo un principio: mantenerse en el gobierno. No obstante, en Australia donde las quejas y la expectativa de fracaso son proverbiales o constituyen el humor de la vida cotidiana, contemplar esto como propósito nacional es una locura. Con tal conducción la raza humana no habría descubierto el fuego o la rueda.

Los principales políticos australianos han arrojado cosas bonitas por la ventana durante los últimos dos años. Han utilizado la santidad de la respetada institución pública del gobierno para dedicarse a una barata y divisiva retórica; alimentando desvergonzadamente a los campesinos y racistas, aparentando una respetabilidad personal. A veces la máscara cae. Se cayó tantas veces a fines de 1997 que el Primer Ministro estaba resbalando en las encuestas y tenía a las iglesias alineadas públicamente contra su escandalosa desfiguración de los derechos y motivaciones aborígenes. Sin embargo, parece haber recuperado su compostura y está de vuelta en su papel de la persona "John el Honesto". El primer ministro de Queensland, presuntamente un hombre completamente decente y progresista en lo privado, se pone una máscara frente a su reducto rural conservador para mostrar cuán áspero y duro puede ser con respecto a los aborígenes, y otra máscara bastante distinta frente a sus distritos urbanos, más liberales, de los partidos asociados a la Coalición, la cual es, quizá, más parecida a su verdadero yo.

El gobierno nacional se ha embrollado tanto a sí mismo en temas indígenas desde su exitosa campaña electoral de febrero de 1996 que su destino está ahora atado a este tema. Esto es muy desafortunado porque la mayoría de los expertos esperan que el gobierno gane sus elecciones de 1998, aunque sea porque los australianos raramente despi-

den a un gobierno después de un sólo período. El Primer Ministro y su círculo íntimo considerarían tal victoria como una vindicación de su política anti-indígena y se pondrían aún peores. A pesar del hecho de que los australianos -incluyendo presumiblemente al Primer Ministro John Howard y su gobierno - deploran la política cultural o etno-racial llevada adelante por las mayorías en partes como Bosnia, Ruanda, Kosovo o México, asumen confortablemente que las mayorías electorales en su propio país constituyen una aprobación moral. La defensa estándar del gobierno nacional contra la crítica extranjera es ahora que Australia tiene un registro admirado de derechos humanos en el mundo. Sin embargo, los derechos indígenas y las necesidades socioeconómicas son el área mayor de fracaso y falta de voluntad política en el registro nacional, un hecho que también es ampliamente conocido en el extranjero.

El gobierno de Howard no puede culpar a nadie más que a si mismo. Llegó al gobierno rechazando la importancia de los temas relativos a los indígenas y al medio ambiente. Sus fallas y los resultantes titulares de prensa inacabables son el resultado directo de la estupidez y mala voluntad en estos temas. La Oficina de Asuntos Indígenas de su propio departamento de Primer Ministro fue capturada, y confesó gastar tiempo y dinero diseñando carteles para la campaña política para socavar la oposición a su política. Una campaña nacional de carteles fue detenida cuando grupos de encuestas encontraron que los carteles del primer ministro reforzaban las opiniones positivas o negativas existentes en vez de ganar más simpatizantes.

El supuesto ministro de asuntos indígenas, el Senador John Herron, es un personaje feliz quien, recientemente -principios de abril de 1998- ha estado saltando jubilosamente en el Parlamento, regocijándose de una decisión de la Suprema Corte que rechaza los derechos aborígenes. Herron visita comunidades indígenas y es poco visto u oído, después de una anterior carrera de "gafes". Una teoría popular de los observadores políticos es que el Primer Ministro lo retiene precisamente para enfurecer a la opinión liberal y al partido Laborista al estilo del modelo y mentor de Howard, Margaret Thatcher. Mientras tanto, Howard promovió a su "eminencia gris", el Senador Nick Min-

chin, a un estatus formal como ministro especial para política indígena y electoral.

Gran parte del sentimiento público contra el gobierno de Howard es consecuencia de su intento de utilizar los prejuicios raciales para ganar debates públicos. En otro país del "primer mundo" esto podría ser decisivo en una elección -y uno puede tener la esperanza que aquí también pueda serlo- pero quizá ningún otro de esos países tenga la vehemente xenofobia, el decidido racismo y el desdeño por las culturas indígenas que se encuentran-en otro gran sector del público australiano. Australia tiene tantas o más personas decentes que otros países, pero es la pasión del resto que hace que el país sea único. Tanto los gobiernos como las oposiciones no han logrado educar al público durante décadas, temiendo un retroceso electoral. Entonces, hoy ocurre aquí un problema racial nacional de un tipo que muchos países ya han superado.

El debate *Wik*

La decisión *Wik* de la Suprema Corte sobre los derechos territoriales en diciembre de 1996 continuó siendo el principal tema político indígena cotidiano (ver *El Mundo Indígena*, 1996-97, pp 165-167). El Primer Ministro Howard amenazó con llamar a elecciones si el Senado, la cámara alta del parlamento que no está bajo el control del gobierno de Howard, rechazaba su legislación para reducir el impacto de las decisiones *Mabo* y *Wik* que reconocieron los derechos de los aborígenes y de los isleños del Estrecho Torres. Al rechazar dos veces sus propuestas, el Senado abre el camino para que Howard tenga una elección especial después de la cual podrá hacer pasar su legislación en una sesión conjunta de ambas cámaras del Parlamento, si entonces tiene las cifras para ganar el asunto. Se espera que tendrá esta posibilidad después de principios de abril, y la utilizará más tarde. Se espera que Queensland, cuyos ganaderos y agricultores son el núcleo central de la oposición nacional a los derechos nativos a los títulos, celebrará una elección a principios de año sobre el tema.

Los temas nunca han sido discutidos adecuadamente, sino solamente en tonos estrechos e histéricos conducidos por los partidos Li-

beral y Nacional y grupos extremos, incluyendo a decididos racistas. Fue triste ver a dos senadores de Queensland del partido Nacional, normalmente elocuentes y nobles en lo relativo a temas raciales, mostrando desesperadamente cuán duramente están preparados para pelear contra el título nativo y cuánto harán para demonizar a las reivindicaciones aborígenes. Curiosamente, el presidente del partido Nacional, el joven miembro de la coalición gubernamental de Howard, es el mayor terrateniente ganadero de Australia.

Mientras tanto, la "constitución" de los países anglófonos se basa mucho en las tradiciones del derecho consuetudinario y en la forma en que esa ley es respetada por los gobiernos. Si los gobiernos comienzan súbitamente a abolir derechos y títulos reconocidos por las cortes más elevadas, como está pasando con los aborígenes e isleños, están poniendo en riesgo mucho más que eso. Todo el fundamento legal y la cultura del respeto por la ley está en peligro. Hoy abolimos los derechos de propiedad de los negros. ¿Los derechos de quiénes aboliremos mañana? ¿Los de los asiáticos, o judíos, o ganaderos? Para un observador extranjero la cosa más rara sobre los debates desde *Mabo* (1922) y *Wik* (1996) ha sido la ceguera de los elementos conservadores de la sociedad australiana frente a tales principios básicos, los mismos principios sobre los cuales ellos han basado orgullosamente sus actitudes políticas y sociales.

En 1997, la Federación Nacional de Agricultores, el grupo de interés que más vigorosamente se opone en forma pública al título nativo, hizo una propaganda televisiva mostrando a un niño negro haciendo trampa para ganar a un niño blanco en un juego. Estas propagandas, y otras parecidas, fueron mostradas en "horas centrales", es decir, mezcladas con las noticias vespertinas. Más tarde en el año, el Primer Ministro apareció en la televisión sosteniendo un pequeño mapa que mostraba al 80% de Australia en un color y diciendo que los aborígenes ahora tendrían el poder sobre todos los sucesos si el no tomaba acción para detener esto. Cuando las iglesias se expresaron severamente sobre esta táctica, Howard se sorprendió y las calificó de "matones". Esto provocó risas de escarnio de parte de los líderes de la iglesia en los noticiarios televisivos, señalando alguno de ellos que

esta era la primera vez en la historia del establecimiento blanco en Australia que todas las iglesias estaban de acuerdo en algo.

Los indígenas, la oposición, la iglesia y otros grupos han exhortado a detener el furor sobre el título nativo. Propusieron que se estableciera un foro de discusión en el cual las diversas partes interesadas pudieran hacer estudios y elaborar un acuerdo razonable para que el gobierno promulgue. Por supuesto, esto no le agrada al Primer Ministro o al partido Nacional. Se dice que este último está preparando no sólo apropiarse de todos los derechos al título nativo sino transferir enormes arrendamientos de tierra a manos privadas. Ese es todo el secreto del tema: los derechos al título nativo sólo se aplican a arrendamientos, y los indígenas no deben interferir con las actividades de los arrendatarios. En otras palabras, todo el alboroto público es en gran medida un malentendido del tema. Además, la "certeza" y "finalidad" prometidas por el gobierno no resultarán; por el contrario, la legislación de Howard plantea tantas interrogantes como respuestas, así que los tribunales estarán ocupados por años tratando de desentrañar el enredo y quizá causando más debates públicos mordaces.

Sin embargo, el hecho que no existe ningún proceso establecido para impedir las múltiples reivindicaciones a un área por diferentes grupos o facciones, ha servido a los fines de los alborotadores. La mayoría de las reivindicaciones no tienen ninguna oportunidad de éxito, pero esto se olvida. Uno puede reivindicar la luna o el Tívoli como propio, pero nadie se preocuparía; sin embargo, en Australia, los políticos pretenden que los aborígenes plantean una seria amenaza a la minería, la ganadería, la agricultura, las playas, etc. Durante un tiempo, el gobierno nacional trató incluso de atemorizar a los habitantes de los suburbios urbanos con el hecho de que los aborígenes se apoderarían de sus hogares o patios traseros, pero esto causó tanta refutación furiosa de las iglesias, abogados, investigadores y otros que dañó severamente el apoyo público al gobierno y fue abandonada como táctica.

Mientras tanto, el gobierno ha mostrado su hipersensibilidad a las acusaciones de racismo con relación a su política *Wik*. Cuando un diputado y líder laborista comentó casualmente a los medios de difusión que el Primer Ministro "nunca está tan feliz como cuando golpea a los 'tipos' negros ('blackfellas')" (abril de 1998), Howard y sus ministros

547

se pusieron a dar gritos de pretendido ultraje. La cuestión tiene dos aspectos. El primero es que los términos "blackfella" y "whitefella" ('tipo' negro, 'tipo' blanco) son términos de uso cotidiano por los aborígenes y los blancos que trabajan con ellos. Estas palabras no tienen ningún sentido peyorativo en tal contexto. Gareth Evans, el destacado ex ministro de relaciones exteriores laborista de Australia, no dijo nada más de lo que cualquier blanco o negro al tanto del panorama aborigen diría (y ciertamente creería). Sin embargo, Howard y sus ministros tienen muy poca comprensión o contacto con esa esfera, aparte de las visitas comunitarias a la antigua del Senador Herron. Segundo, el gobierno, como muchos australianos, cree que si uno expresa comentarios piadosos sobre los negros en ocasiones públicas, o al menos evita hacer comentarios ofensivos, esa es una suficiente prueba de buena voluntad. Como los indígenas de todo el mundo saben muy bien, las acciones de un gobierno racialmente punitivo "hablan" más claramente que una pretendida ofensa de un primer ministro frente al uso inofensivo del lenguaje coloquial.

En 1998, Australia puede convertirse en un gran carnaval de innumerables intenciones e ideas malvadas o desquiciadas para competir por la atención pública sobre el tema de la raza, ahogando la racionalidad y la política responsable. No será accidental, sino la calculada política de una dirección política separada de las estructuras de conocimiento, pensamiento, tradición y valores acumulativos que son la esencia de cualquier sociedad. Lamentablemente hará retroceder a un gran país cuya energía, creatividad y vigor, en virtualmente todas las áreas de los logros humanos -y no sólo ganando medallas deportivas- prometía recientemente una contribución tan grande al mundo.

Los Niños Robados

El debate *Wik* estaba en uno de sus periódicos picos cuando otro tema lo eclipsó brevemente. Cuando dos mil delegados de la Convención Australiana de Reconciliación se comenzaron a reunir en Melbourne, a fines de mayo de 1997, llegó a la prensa el informe sobre los Niños Robados o "las Generaciones Robadas". Este informe refería a las decenas de miles de niños aborígenes e isleños separados de sus fami-

lias durante gran parte del siglo XX por ninguna otra razón que su aboriginalidad. El propósito de la política era acelerar la esperada extinción de la raza aborigen como un todo, y asimilar a la juventud indígena a las clases más bajas de la sociedad blanca. El informe estaba lleno de relatos personales sobre la brutalidad con la que los funcionarios blancos separaban a los niños de sus madres y las vidas, emocionalmente despojadas y frecuentemente abusivas físicamente, que sufrieron luego en hogares privados o instituciones públicas. Ciertamente, estos relatos son la razón del gran impacto del informe, y del fuerte apoyo de las personas blancas que lo leyeron.

A pesar de presentarse como un gobierno de "valores familiares", Howard, Herron, y algunos de sus colegas lograron aparecer extremadamente incapaces y no dispuestos a comprender el sufrimiento humano que implicaba. Herron alegó que los aborígenes eran afortunados de haber sido separados, que recibieron una mejor educación y perspectivas de trabajo como resultado. Ese alegato es especialmente alarmante porque el informe estudia específicamente y desacredita tales creencias. Sin embargo, como tanto de la política aborigen australiana, al gobierno no le interesa los hechos, sólo usar a los negros para obtener una ventaja política blanca.

Una preocupación particular del informe, y de los indígenas en general, es el efecto a largo plazo de la política de los Niños Robados. Es decir, el daño cometido por la política a generaciones de jóvenes aborígenes es traspasado a las familias que esos individuos crean cuando se convierten en adultos. El vasto abanico de problemas sociales de los aborígenes del día de hoy es uno de sus resultados. Los estudios investigativos concluyeron que aunque los niveles generales de empleo y educación no mejoraron para las personas separadas de sus familias en el pasado, sus oportunidades de ir a la cárcel o tener una serie de otros serios problemas aumentaron enormemente.

El gobierno intentó una serie de excusas para evitar la recomendación del informe sobre una disculpa nacional, agregando así el insulto al daño contra los muchos aborígenes afectados. Una gran cantidad de líderes indígenas son Niños Robados ellos mismos, así que ahora tienen una más visceral y bien merecida aversión hacia el gobierno de Howard que antes. Al ministro de Salud, Michael Woodridge, proba-

blemente el mejor informado ministro sobre temas indígenas, se le preguntó sobre el tema en una entrevista sobre el informe. Después de una pausa significativa, dijo que los australianos todavía no están preparados para dar una disculpa real porque todavía no comprendían lo que los aborígenes e isleños habían sufrido en este país. Uno no puede dejar de pensar que estaba hablando sobre sus colegas del gabinete.

La Convención de Melbourne había sido planeada durante años pero se centró inevitablemente sobre el tema de los Niños Robados, no menos que sobre el tema general de las relaciones negro-blanco.

En la primera mañana el Primer Ministro dio un discurso que comenzó bien. Su aparente intento de simpatizar con los Niños Robados fue bien recibido, aunque estuvo lejos de ser una disculpa del gobierno. Sin embargo, súbitamente comenzó a gritar a la audiencia sobre el tema del título nativo *Wik*, enfureciendo a la mayoría de los presentes. Muchos aborígenes se pararon y le volvieron sus espaldas, una fuerte protesta cultural. Por supuesto, el discurso estaba probablemente calculado para ofender, para encolerizar a la multitud, con el objetivo de ganarse el favor de las compañías mineras y el sector rural. También profundizó un punto de vista urbano no-indígena de que el Primer Ministro es insensible y está fuera de contacto con las realidades sociales y culturales.

Por supuesto, el Primer Ministro tuvo mucho apoyo rural. También hubo una confusión pública y consternación frente a la conclusión del informe de que Australia había violado el convenio internacional sobre el genocidio que había firmado después de la segunda guerra mundial. Para la gran mayoría, por supuesto, el genocidio significa una matanza masiva, y aunque hubo mucho de eso en las relaciones blanco-negro en Australia en el pasado, ese no era el tema del informe. El informe dijo, simplemente: La política del traslado forzado de niños de los indígenas australianos a otros grupos con el propósito de criarlos separados e ignorantes de su propia cultura y pueblo podría propiamente ser catalogada de "genocida", en violación del derecho internacional obligatorio desde al menos el 11 de diciembre de 1946. La práctica continuó durante casi otro cuarto de siglo.

No obstante, la mayoría las tragedias personales fueron la verdadera historia. Los niños fueron separados de sus familias, éstas fueron

generalmente impedidas de volverlos a encontrar, o se les dijo que habían muerto. Fueron separados permanentemente. Por cierto, lo fundamental de la política era quebrantar la dinámica familiar y comunitaria de los pueblos indígenas.

Aunque el informe es largo, caro de comprar, y no está bien organizado para los lectores, es muy poderoso, especialmente los relatos personales. Ahora se publicó una edición más barata y pequeña que contiene la esencia del informe, a un precio razonable y en un formato leíble.

Estado y nación

El futuro del Territorio del Norte sigue siendo un tema relacionado con *Wik*. Tanto el gobierno federal como el del Territorio del Norte siguen dando pasos para convertir al mismo en un estado, un estado en el cual la mayoría de la población permanente -aborígenes- perderían la protección de sus derechos territoriales federales y mucho más a manos del gobierno populista de Darwin, con una locura desarrollista, determinado a "ponerlos en su lugar". El gobierno del Territorio del Norte es virtualmente un sistema unipartidario y los aborígenes, que en su mayoría vota por la oposición laborista que nunca llegó al poder, no tienen ninguna influencia dentro del mismo. En otras palabras, el gobierno de Howard está por transferir las tierras y las vidas de los aborígenes de la jurisdicción federal, en la cual tienen algunas salvaguardias, a un gobierno hostil del cual ellos desconfían. A diferencia del persistente y determinado trabajo de los nativos de Alaska, los pueblos del norte de Canadá y los groenlandeses para evitar la asimilación a los intereses blancos desarrollistas y obtener derechos territoriales y marítimos substanciales, y la autonomía, los aborígenes del Territorio del Norte sólo se han centrado ocasionalmente en el tema de su futuro político. No hay duda de que la falta de confianza política de parte de algunos aborígenes es a veces un factor.

La coordinadora del Grupo de Trabajo Indígena Nacional (NIWG), el grupo de "lobby" político nacional indígena de Australia, Olga Havnen, recientemente entregó un trabajo muy meditado a una reunión de alto nivel de dirigentes políticos neozelandeses y australianos. Ella

ubicó al Territorio del Norte y otros temas en un contexto constitucional, tratando de romper con la vulgaridad negro-blanco que ha envenenado al país durante los últimos dos años. Concluyó con cuatro "propuestas para el progreso":

1. Los pueblos indígenas ya han sobrevivido lo peor que la historia de este continente les pudo arrojar. Estamos aquí para quedarnos.

2. Los pueblos indígenas y sus territorios tradicionales son comunidades étnicas o naciones, las cuales no son meros conjuntos de gente desafortunada que necesita una mano para integrarse al mundo del hombre blanco. Son comunidades culturales y políticas con memoria, historia, y derechos.

3. El reconocimiento de tales pueblos y territorios no constituye una amenaza a la unidad nacional. Por otro lado, sólo el fortalecimiento de tales instituciones de auto-ayuda plantea una promesa para resolver los males socioeconómicos de larga data.

4. El fortalecimiento de las regiones rurales y remotas de Australia donde viven muchos indígenas fortalece a Australia como a un todo. La paranoia de los australianos en la segunda guerra mundial sobre la "lealtad" de los aborígenes del norte y los isleños no fue un menosprecio para nosotros - más bien, fue un reconocimiento de los blancos de su propio tratamiento salvaje, por lo general, de los pueblos indígenas durante 150 años. La forma de que exista una Australia es incluir a los pueblos indígenas, no ponerlos en relieve para ganar elecciones racistas.

La escena australiana también atrajo la atención del principal filósofo político del mundo del futuro de los indígenas dentro de los estados nacionales, James Tully. Durante una prolongada estadía en Australia, en 1997, Tully investigó y disertó sobre la situación político-constitucional de los pueblos indígenas y presentó en forma útil al país los importantes precedentes y pensamientos contenidos en el extenso informe de 1996 de la Comisión Real sobre Pueblos Aborígenes del Canadá. Canadá y Australia son tan parecidos en su geografía, histo-

ria, estructura política, etc. que existen razones obvias para compararlos. Durante algunos años Australia desbordaba de una autoafirmación nacional abierta e inclusiva, y tenía esperanzas inocentes de que una república simbolizaría un nuevo orden post-Imperio Británico. Sin embargo, esto ha cedido ahora lugar al lado oscuro, aislacionista y xenofóbico del nacionalismo de Camberra, e incluso en los círculos académicos las ideas o la información provenientes del extranjero ya no son bienvenidas. El nacionalismo mezquino ya era evidente antes del cambio de gobierno de 1996 entre muchos funcionarios y académicos. Por lo menos, el cambio de gobierno y los movimientos racistas que lo acompañaron han hecho recordar a todo el mundo que el nacionalismo dogmático no es de ninguna manera bueno para las minorías.

La política gubernamental de Australia se basa sumamente en el pasado cruel. Es decir, los pueblos indígenas están tan acostumbrados a no recibir nada, o a ser aplastados cuando muestran algún tipo de espíritu, y a vivir en condiciones miserables, que los gobiernos pueden confiar en su desgracia como un recurso político nacional. La entrega de unos pocos dólares aquí y allí es todo lo que se necesita hacer para mantenerlos divididos y relativamente quietos. El problema de ese enfoque desde el punto de vista del hombre blanco es que esos días ya pasaron en las partes más maduras del país, y pronto terminarán -probablemente con una explosión- en el resto. Los jóvenes indígenas y las personas mayores más maduras con el coraje necesario, la comprensión, o la educación ya están presentes en la escena; una vez que la comunidad indígena siga su conducción, rechazando el paternalismo blanco y el "colonialismo del bienestar" de una vez por todas, su furia por haber sido defraudados y manipulados durante tanto tiempo va más que a contrarrestar los tiempos tranquilos de la hegemonía política de hoy del hombre blanco.

Alguna esperanza para el Estrecho Torres

El gobierno de Howard puede ser menos negativo sobre el futuro del Estrecho Torres que sobre los aborígenes. Las razones de esto son las relaciones tradicionalmente cordiales entre los isleños y los partidos

Nacional y Liberal, una creencia de que su cultura melanesia hace a los isleños "más fáciles de tratar" que los aborígenes; una visión de que sus islas tienen un estatus moral y político diferente comparadas con Australia; y el estilo menos confrontativo de los enfoques isleños frente a las relaciones con el gobierno. De alguna manera, esto recuerda a los inuit canadienses, quienes han tenido mucho éxito políticamente por "no ser indios" frente a los ojos de Ottawa. Sin embargo, también como los inuit, los isleños tienen las mismas aspiraciones básicas que otros pueblos indígenas contemporáneos, en Australia y en el extranjero. Quieren mejores servicios públicos (especialmente de salud); más posibilidades de ingreso; reconocimiento de sus derechos consuetudinarios a las áreas marinas, los recursos marinos y los medios de subsistencia marinos; un régimen comprehensivo de manejo de recursos y medio ambiente para proteger sus mares de los peligros de la contaminación que implican los barcos de Australia, Papúa Nueva Guinea, e Indonesia; un papel más fuerte en las relaciones internacionales de la región; y autonomía local y regional, dentro de Australia, o en asociación con la misma. Ellos contemplan a su alrededor a los pueblos melanesios y polinesios que gobiernan sus propios países isleños o administran sus propias regiones isleñas autónomas, p. ej., dentro de Nueva Zelanda (Islas Cook y Niue).

Los isleños también tienen algunas necesidades especiales. Su región es la única área fronteriza de Australia con otro país. Las enfermedades y los insectos, el tráfico de armas y drogas, la inmigración ilegal son fenómenos endémicos en el Estrecho Torres. Los isleños ya tienen una crisis sanitaria local, y cada verano se identifican nuevos insectos, pestes y enfermedades, que se trasladan hacia el sur a través de su región mientras que escuadrones de científicos se dispersan diariamente por todo el Estrecho en helicópteros, tratando de localizarlas, identificarlas y destruirlas. Para los blancos que viven en Queensland, el Territorio del Norte, o Australia occidental la vida tiene una cualidad bíblica ya que miramos diariamente el cielo y las noticias de la televisión en busca de tempestades, plagas, langostas, etc. El Creador aparentemente no quería que viviera gente aquí porque cualquier pequeño cambio en los modelos climáticos o El Niño parecen acarrear consecuencias espantosas. Las industrias de la fruta, las verduras y el

ganado, ricas y muy grandes, de Queensland están bajo la constante amenaza de algún nuevo insecto. ¡Incluso se ha alegado que neozelandeses malvados tratan de arruinar la economía de Australia contrabandeando insectos y pretendiendo encontrarlos aquí!

Los isleños demandan constantemente más cuarentenas y poderes para implementarlas y personal para protegerse. El Primer Ministro los visitó en 1997, tanto para posar con los isleños que le daban la bienvenida para atacar a los enemigos de su política indígena fuera de la región como para mostrar interés por la implementación de la cuarentena. Sin embargo, su gobierno ha mostrado algún interés positivo en las propuestas para la autonomía regional del Estrecho Torres desde la publicación de un informe parlamentario sobre el tema a mediados de 1997. El informe no pudo llegar muy lejos debido a una ausencia de puntos de vistas claros de Queensland o del gobierno federal. Además, los isleños tienen mucho trabajo para hacer en lo que respecta a la movilización política y el desarrollo de sus propias propuestas. No obstante, el informe del Comité abrió el camino útilmente para una asamblea única elegida para representar a todos los que viven en la región, la vasta mayoría de los cuales son isleños, y exhortó al gobierno federal y estatal a entregar sus poderes a tal organismo.

Los líderes isleños han comenzado a celebrar reuniones de consultas públicas sobre la autonomía. El líder desde hace mucho tiempo del Concejo Coordinador de la Isla, Getano Lui, Jr., es citado diciendo "Debemos haber establecido donde queremos estar y poner nuestra posición en el papel antes de que ocurra cualquier cambio constitucional", es decir, antes del año 2000 que se ha convertido en una fecha clave para el cambio constitucional nacional australiano como reemplazar a la Reina como cabeza de estado electa. Ciertamente, en la Convención Constitucional especial de febrero de 1998 convocada por un reacio Primer Ministro Howard para discutir este último tema, el único representante del Estrecho torres, el ex líder George Mye, dijo a la Convención: "El debate sobre la Constitución Australiana que ha conducido a esta Convención no ha encarado las consideraciones de una serie de grupos diversos tales como el mio dentro de la comunidad australiana. Los territorios de la Isla Norfolk, Cocos (Keeling) e Isla Christmas tienen sus propios arreglos constitucionales hechos a su

medida dentro del marco nacional de Australia, así como también la Isla Lord Howe dentro de New South Wales. ... Por lo tanto, es hora de considerar que tipo de administración regional y acuerdos políticos satisfacen mejor las necesidades de los isleños y de todos los australianos en el siglo XXI. El nuevo informe sobre una mayor autonomía para los isleños del Estrecho Torres de la Cámara de Representantes ... debería focalizar un pensamiento positivo."

Ese informe parlamentario también repudió el intento del gobierno de castigar a los aborígenes negándoles una consideración similar. "El Ministro para Asuntos Aborígenes y de Isleños del Estrecho Torres ha sugerido que el Comité considere si el otorgamiento de una mayor autonomía para los isleños del Estrecho Torres sería considerado como un precedente para un enfoque similar de la autonomía indígena en el continente" nota, pero replica que "el Comité no cree que las reformas para los isleños del Estrecho Torres deberían comprometerse por miedo a crear un precedente para otros grupos". "En realidad," continúa, "el Comité cree que se deberían hacer mayores esfuerzos para ayudar a los aborígenes y a los isleños del Estrecho Torres a que sean más autosuficientes y manejen sus propios asuntos". El Comité está dominado por los miembros de la Coalición, pero como cualquier persona de pensamiento justo que examine de cerca los asuntos indígenas, ellos ven respuestas obvias y no controversiales.

¿Declinación y caída?

Australia no es el único país del "primer mundo" donde el recorte de los papeles del gobierno y de sus presupuestos varía inversamente con el volumen de ampulosidad de los políticos. Es como si la falta de trabajo oficial diera a los líderes más tiempo para charlar en espectáculos radiales y televisivos. El contenido de esta conversación es usualmente de una moralina barata y exhortaciones a la autoayuda, como si hubiéramos elegido primeros ministros, jefes de estados y presidentes para actuar como papás de pequeños pueblos victorianos. No es de extrañar que la Presidencia americana esté amenazada por el comportamiento privado de Clinton, o que el partido de John Howard se preocupa sobre las amenazas a su imagen del "honesto John". Si no

pueden ser juzgados por acciones positivas, deben al menos sonar como que tienen buenas intenciones.

Puede ser que todos los libros, documentarios y seminarios para el Milenio que enfoquen los temas a largo plazo e incluso eternos hagan aparecer a los líderes todavía más inadecuados. Hace mil años en Europa y el "Nuevo Mundo" de otros continentes se encontraron en las costas orientales de América del Norte cuando la familia y amigos de Eric el Rojo intentaron, sin éxito, establecerse o desplazar a los indígenas *algonquianos* y *dorset* y a los *inuit* de Tule. Ellos establecieron derechos según su propia opinión para convocar a un parlamento y trajeron con ellos su nueva religión cristiana. No incluyeron a los pueblos indígenas en sus planes. Recién en las últimas pocas décadas algunos europeos de América del Norte y Europa parecieron aprender como hacer las cosas en forma diferente, como acomodar o reconciliar a los pueblos indígenas y no-indígenas. Australia fue el último país en integrarse a este movimiento, pero en las palabras del ex primer ministro, estaba tratando de recuperar terreno rápidamente. Ahora todo eso ha sido descartado. Howard y su gobierno nos dicen que los aborígenes e isleños no son gente para juntarse y trabajar como iguales sino gente para incorporarse al fin de la cola de los servicios de salud, educación y sociales del hombre blanco.

Esto es especialmente desafortunado porque Australia es el único país hasta la fecha donde los líderes indígenas han realizado una revisión comprehensiva y han elaborado una política nacional mediante reuniones comunitarias, seminarios políticos, seminarios de expertos, y largos y acalorados debates sobre temas fundamentales. Estos fueron independientes de los gobiernos, aunque los líderes eran personas con mucha sabiduría política y contactos en Camberra y en los estados. Publicaron tres informes a comienzos de 1995. El primero buscaba un amplio consenso entre los negros y los otros australianos, el segundo tenía una serie precisa de recomendaciones, delineando los próximos pasos para reformas a largo plazo e inmediatas, y el tercero brindaba un "viaje virtual" de panoramas terrestres y marítimos de una futura reconciliación racial en Australia. A pesar de las difíciles y frecuentemente airadas relaciones entre los líderes indígenas y los gobiernos laboristas de 1983-96, es parte de la mitología del gobierno

557

de Howard decir que estas relaciones eran de intimidad y que él, John Howard, está ahora restaurando el "equilibrio".

Howard parece considerar la etno-política indígena y las relaciones negro-blanco como temas que él puede definir o redefinir en cualquier momento y de cualquier manera que se acomode a su retórica política. Como la mayoría de los australianos, no comprende que los pueblos indígenas no son un problema único de Australia a ser asimilados a la conveniencia de la Australia blanca. En vez, son parte de la experiencia internacional de pueblos subyugados luchando para lograr la igualdad, la supervivencia colectiva y un futuro decente dentro de marcos impuestos por gobierno y pueblos que han anexado sus territorios. La dinámica y posibilidades - y las limitaciones- de tales relaciones son bien conocidas y están a disposición para estudio en todo el mundo. Australia tendría no sólo que consultar la experiencia de países similares pertenecientes al Imperio Británico como Nueva Zelanda, EE.UU., y Canadá, sino la de los países nórdicos donde los pueblos indígenas gozan de elevadas normas sociales y políticas incluso en terrenos difíciles como Groenlandia y el norte de Noruega. No existe razón para que no se pueda lograr un resultado pacífico y armonioso en Australia, pero no hay nada en el horizonte que lo sugiera.

Conclusión

La política australiana relativa a los pueblos indígenas está ahora peligrosamente a la deriva. Los partidos políticos la consideran como un objetivo útil para dirigir las inseguridades blancas lejos de sí mismos, o como un tema pasivo que pueden ignorar o posponer sin problemas. No es ni una cosa ni la otra. Los pueblos indígenas son comunidades políticas cada vez mejor informadas, inquietas y autoconscientes en todas las ciudades, pueblos, áreas rurales y remotas de Australia. Tienen un fuerte apoyo en el público blanco, aunque allí también tienen una oposición aun más fuerte, especialmente de blancos de bajos ingresos (tanto rurales como urbanos) y cómodos defensores de los viejos tiempos. No obstante, la dinámica social y política de los movimientos de los pueblos indígenas está sólo incidentalmente relaciona-

558

da a los caprichos blancos, y tendrá su propio florecimiento, les guste o no.

En vez de jugar con crayones para diseñar nuevas propagandas para manipular a la opinión pública blanca, los asesores del Primer Ministro harían mejor en informarlo sobre la eterna dinámica de los pueblos basados en la tierra que son activamente controlados, discriminados, y denigrados por los organismos oficiales para servir los intereses de los colonos y las compañías que explotan los recursos. Sus colegas del Departamento de Relaciones Exteriores que estudian política internacional podrían brindarle muchas informaciones. Puede ser un simple asunto ahora para los primeros ministros desconocer a los dictados de la justicia cuando defienden a los aborígenes y a los isleños del Estrecho Torres, pero va a ser menos fácil detener la violencia política una vez que comience esa fase, una de las fases inevitables de la etno-política. Puede ser fácil para los líderes gubernamentales de Brisbane, Perth o Darwin encerrar a los niños y adultos negros para que los blancos se sientan más seguros en su confort suburbano - una seguridad amenazada más por los informes noticieros sensacionalistas de la televisión comercial que por la realidad- y mostrar a los votantes que están "actuando en su nombre". Sin embargo, cuando más negros se escapen de las circunstancias desventajosas y la desesperación detrás de las cuales los blancos del norte y oeste de Australia han tratado de acorralarlos, pueden llegar a hacer mucho más que simplemente destruir las industrias turísticas sobre las cuales los gobiernos de allí ponen tantas esperanzas.

Se podría casi pensar que los políticos australianos están tratando de crear una explosión de las relaciones raciales. Cuando llegue, como ciertamente sucederá a menos que los gobiernos cambien de curso y de actitudes muy dramáticamente durante los próximos pocos años, puede ser más dolorosa que el Ulster o el país Vasco. La tragedia es que ahora los gobiernos tienen la oportunidad de actuar inteligentemente y trabajar con líderes indígenas bien dispuestos, para reconciliar a sus pueblos. La actual auto-absorción de Australia puede sólo terminar, irónicamente, cuando los más locales y aislados de sus ha-

bitantes hagan que el continente sea una noticia diaria desagradable en el extranjero.

EL PACÍFICO

El año pasado fue un año de fortalecimiento regional y cooperación internacional indígena por parte de los isleños del Pacífico. También fue marcado por catástrofes ecológicas como tifones y sequías. Además, los pueblos indígenas del Pacífico siguen enfrentando la ardua realidad del colonialismo militar, la globalización económica y el racismo ambiental, lo cual intensifica la explotación neocolonial de los pueblos de la región del Pacífico. La vida cotidiana de los isleños del Pacífico está determinada en gran medida por fuerzas que se escapan a su control. Condicionados por la ubicación, el tamaño y la naturaleza de su región, continúan sufriendo experimentos tecnológicos perjudiciales, la extracción de recursos y el atropello de su derecho a la autodeterminación.

Se suponía que 1998 era el año del referéndum de los *kanak* de Kanaky/Nueva Caledonia que determinaría su futuro estatus político. Sin embargo, esta votación sobre la independencia ha sido en realidad pospuesta por quince o veinte años por los llamados Acuerdos de Noumea, que fueron firmados por el presidente Roch Wamitan del FNLKS (Front de Libération Nationale Kanak Socialiste), el primer ministro francés Lionel Jospin, y Jacques Lafleur, presidente del RPCR (Réassemblement pour la Calédonie dans la République), el 5 de mayo de 1998 (ver más adelante).

También en otros aspectos 1998 es un año importante para los isleños del Pacífico. Un acuerdo de cese del fuego entre Papúa Nueva Guinea y Bougainville está empezando a cambiar las condiciones de vida de los *bougainvilleanos*. En el centenario del comienzo del imperialismo abierto de los EE.UU. en el Pacífico, los pueblos indígenas de Guam y Ka Pae'aina (Hawai'i) están enseñando a sí mismos, al público y a sus gobiernos la significación de 1898 para las actuales condiciones del Pacífico. Los Estados Unidos se apoderaron de Guam y las Filipinas en conexión con la guerra hispano-americana de 1898. Este mismo año, los EE.UU. también anexaron Hawai'i y el año siguiente Samoa Americana fue sumada a sus posesiones. En el Caribe,

560

los EE.UU. se apoderaron de Puerto Rico y Cuba. Hoy, un tercio de la pequeña superficie de Guam está reservada para uso militar.

Neocolonización y descolonización

Hoy, el Pacífico alberga una parte desproporcionada de los pueblos colonizados del mundo, comprendiendo formas tradicionales y nuevas de colonialismo. Después de cincuenta años de condena internacional de la colonización, todavía encontramos dos posesiones de los Estados Unidos (Guam y Samoa Americana), una indonesia (Timor Oriental, una británica (Pitcairn), una neozelandesa (Tokelau) y una francesa (Kanaky) en la Lista de las Naciones Unidas de Territorios No-Autónomos con derecho a la descolonización. A estas se agregan los pueblos indígenas de Te Ao Maohi (la Polinesia bajo ocupación francesa), Ka Pae'aina (Hawai'i), Aotearoa (Nueva Zelanda), Papúa Occidental (Irian Jaya), Rapanui (Isla de Pascuas), Wallis y Futuna y diversos pueblos y naciones micronesios. Los movimientos sociales y políticos de estos pueblos procuran el reconocimiento de la ONU de su estatus como pueblos en el contexto del derecho internacional para asegurar su derecho a la reinscripción en la lista de la ONU y entonces gozar del derecho a la descolonización.

No obstante, las Naciones Unidas están bajo una presión implacable, especialmente por parte de los Estados Unidos y Francia -los dos mayores poderes coloniales tradicionales del Pacífico de hoy- para que declaren al colonialismo "erradicado" (para el año 2000) y clausurar el "Comité de 24"/"Comité de Descolonización"/"Comité Especial sobre la Situación con Respecto a la Implementación de la Declaración sobre el Otorgamiento de la Independencia a Países y Pueblos Colonizados" de la ONU.

Los pueblos indígenas están preocupados por esta presión ejercida sobre el Comité y solicitan una extensión de su trabajo. Especialmente los pueblos del Pacífico no consideran que el trabajo del Comité esté terminado. Los recientes acontecimientos de Bougainville (ver más adelante) apuntan a un proceso de paz modelado según los requisitos de la ONU para la descolonización, incluyendo la retirada de las fuerzas coloniales de ocupación y elecciones libres sobre el futuro estatus de la nación en cuestión. Los ch*amorros*, decepcionados por la falta

de voluntad del gobierno de los EE.UU. para tomar seriamente su solicitud de estatus de Mancomunidad, están planteándose activar el proceso de descolonización de la ONU, al cual tienen derecho según el derecho internacional. De la misma manera, los kanak ahora necesitarán al comité de descolonización hasta bien entrado el próximo siglo (ver Morin en *Asuntos Indígenas* 98:1).

Un comunicado del 3er. Foro Paralelo de ONGs al Foro del Pacífico Sur de septiembre de 1997, endosado por las dos mayores organizaciones no-gubernamentales regionales del Pacífico, el Pacífico Libre de Armas Nucleares e Independiente (NFIP) y la Asociación de ONGs de las Islas del Pacífico (PIANGO), apoya la reinscripción de Te Ao Maohi (la Polinesia ocupada por Francia) y otras naciones indígenas en la Lista de la ONU de territorios no-autónomos:

> Nosotros, los delegados del 3er Foro Paralelo de ONGs [...] notamos que el comunicado del Foro del Pacífico Sur de 1997 no encara el derecho a la autodeterminación e independencia para pueblos colonizados. Junto con nuestros delegados de Timor Oriental, Papúa Occidental, Te Ao Maohi (Polinesia Francesa), Bougainville, los kanaka maoli de Ka Pae'Aina (Hawai'i), Aotearoa y Australia Aborigen, reafirmamos nuestro derecho a la autodeterminación.
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> [1998] es el aniversario de la anexión de Ka Pae'Aina (Hawai'i), y el pueblo kanak de Kanaky (Nueva Caledonia) determinará su futuro. Los pueblos de Wallis y Futuna, Rapanui y las Molucas del Sur también han sido colonizados por poderes extranjeros. Hacemos un llamado por mas acción por parte de los gobiernos del Pacífico Sur. Hacemos un llamado por la extensión del mandato del Comité para la Descolonización de la ONU más allá del año 2000, y la reinscripción de pueblos colonizados en la lista del Comité de territorios no-autónomos (Comunicado del Foro Paralelo de ONGs, 3er Foro Paralelo, Rarotonga, Islas Cook, 19-26 de septiembre de 1997).

Los pueblos indígenas presentarán este comunicado y sus razones subyacentes al seminario regional del Pacífico celebrado por el Comité Especial de la ONU bajo el Plan de Acción del Decenio Internacional para la Erradicación del Colonialismo en Nadi, Fiyi, del 16 al 18 de junio de 1998. El propósito declarado del seminario es evaluar la si-

tuación de los territorios no-autónomos, particularmente su "evolución política" hacia la autodeterminación para el año 2000.

Las instalaciones de pruebas nucleares en Moruroa deberían estar completamente desmanteladas para julio de 1998, después de 30 años de uso. Sólo quedará un pequeño grupo de hombres para controlar los niveles de radioactividad del área durante cinco a diez años - un plazo muy limitado de tiempo, considerando el tiempo de la mitad de la vida del uranio. Está circulando una petición en el Pacífico en apoyo del pueblo mao*hi* de Te Ao Maohi:

> Procuramos la dignidad de nuestro pueblo para vivir libremente en nuestra propia tierra, [y] hacemos un llamado a nuestros gobiernos para que apoyen el derecho maohi a la autodeterminación e independencia, para discutir este tema en el Foro del Pacífico Sur, y hacemos un llamado para la reinscripción de la Polinesia Francesa en la lista de territorios no-autónomos del Comité de Descolonización de las Naciones Unidas.

Para ser reinscripto en la lista, los maohi solicitan el apoyo del Foro del Pacífico Sur en su próxima reunión de agosto de 1998, en Pohnpei, Estados Federados de Micronesia. En la reunión previa del Foro en Rarotonga, Islas Cook, en septiembre de 1997, el tema de la reinscripción de la nación maohi en la Lista de la ONU de Territorios No-Autónomos ni siquiera estaba en la agenda, a pesar de las aseguraciones previas a la reunión. El apoyo del Foro (liderado por el Grupo de Vanguardia Melanesio) fue fundamental para asegurar la reinscripción de Kanaky hace diez años. En vez de encarar la cuestión de la autodeterminación para los pueblos indígenas de Te AO Maohi, el Foro del Pacífico Sur volvió a admitir a su colonizador, Francia como un Socio Dialogante Pos-Forum del Foro del Pacífico Sur, en la buena compañía de otros ex poderes coloniales. Francia fue expulsada cuando comenzó su última serie de pruebas nucleares en 1995 en Moruroa, Tahití. Desde que terminaron las pruebas en 1996, Francia ha afirmado activamente su estatus en el Pacífico a través de generosas ayudas económicas a los gobiernos del Pacífico y la financiación de eventos estratégicamente importantes como las reuniones regionales. De esta manera, el gobierno francés fortalece su continua situación colonial

en el Pacífico. El pueblo de las Marquesas teme ser colonizado por los tahitianos, pues esperan que estos últimos obtengan la independencia de Francia dentro de los próximos veinte años, y, por lo tanto, están solicitando convertirse en una colonia directa de París - de acuerdo a Lucience Kimitete, el alcalde de las Marquesas.

El camino del pueblo kanak hacia la autodeterminación ha tomado una nueva dirección con la firma del Acuerdo de Noumea, el cual ha recibido algo como una recepción mixta en el Pacífico y en **Kanaky**. Los esfuerzos para resolver la cuestión del control sobre el niquel complicó la implementación del Acuerdo Matignon de 1988, pero ahora se llegó a un acuerdo sobre un proyecto conjunto de la compañía minera canadiense Falconbridge y la New Caledonia's South Pacific Mining Company para construir una planta de procesamiento de níquel en la parte norte de Kanaky. Se espera que este desarrollo fortalezca al pro-independentista FLNKS. Desde los Acuerdos de Matignon de 1988, que establecieron el marco para el proceso de la descolonización de Kanaky, la población europea de Kanaky creció a más de 10.000 personas, de un total de población de 200.000 personas. Los kanak constituyen ahora solamente el 44% de la población (de acuerdo a los Acuerdos de Matignon, todos los residentes de Kanaky en 1988 y sus hijos pueden votar en el referéndum de 1988). De acuerdo con el proceso de descolonización de la ONU, la Resolución de 1988 sobre Nueva Caledonia de la ONU requiere que "un acto de autodeterminación, en el cual todas las opciones estén a disposición, debería ser precedido por un programa comprehensivo de educación política en el cual todas las opciones sean presentadas imparcialmente y sus consecuencias sean completamente explicadas". Durante los 15 a 20 años, que los Acuerdos de Noumea extienden el proceso de descolonización, los kanak necesitarán la opción antes mencionada y el apoyo del Comité de los 24 de la ONU. El preámbulo del Acuerdo de Noumea establece que

> [ ]momento ha llegado de reconocer las sombras del periodo colonial. [...] Los kanak fueron empujados al margen geográfico, económico y político de su propio país. [...] La descolonización es el medio de crear un lazo social duradero entre las comunidades que viven hoy en Nueva Caledonia. [...] Al final del periodo de 20 años, la transferencia de los poderes

soberanos a Nueva Caledonia, el acceso a un estatus internacional de plena responsabilidad y la transformación de la ciudadanía en nacionalidad serán sometidos a un referéndum de las poblaciones afectadas (traducción no oficial).

La población de Nueva Caledonia votará sobre el acuerdo en diciembre de 1998. Si es aceptado, la legislación laboral, las regulaciones del comercio exterior, los derechos mineros, los servicios sociales y otros poderes serán gradualmente transferidos a un gobierno reestructurado, a ser electo a mitad de 1999. Francia mantendrá el control de la defensa, las relaciones exteriores, el sistema de justicia y la moneda. Para que este proceso de aumento de la autonomía pueda tener lugar, el gobierno francés está enmendando ahora su constitución, que hasta ahora sólo permitía dos opciones para Nueva Caledonia, ser independiente o seguir siendo un territorio de ultramar. Los pueblos de otros de los "territorios de ultramar" de Francia, Wallis y Fortuna, están preocupados por estos acontecimientos, pues temen que perderán las conexiones y privilegios porque están gobernados a través de Noumea, la capital de Kanaky. Sin embargo, en años recientes, el pueblo de Wallis y Futuna se ha movido en un mayor grado en dirección al apoyo de la independencia de Kanaky.

Bougainville

El 30 de abril de 1998 fue firmado en la capital de Bougainville, Arawa, un acuerdo de cese el fuego entre el Gobierno Interino de Bougainville (BIG), el Ejército Revolucionario de Bougainville (BRA), el Gobierno de Transición de Bougainville (BTG) y el gobierno de Papúa Nueva Guinea (PNG) que finaliza casi diez años de guerra entre Bougainville y Papua nueva Guinea. La guerra costó casi veinte mil vidas. El acuerdo de cese del fuego fue firmado en presencia de una multitud de dos mil personas, incluyendo a los ministros de relaciones exteriores de Fiyi, Vanuatu, Nueva Zelanda y Australia, así como también un representante de las Naciones Unidas. Los medios de difusión describieron a la multitud desde entusiasta hasta consistente de "algunos de los seres más pobres del planeta" quienes "miraban sin sonrisas ni risas ni lágrimas": "Sólo se podía ver su cansancio, su desgaste a cau-

sa de la guerra y cómo habían sido aislados del mundo durante tanto tiempo"(Michael Field en Pacific Islands Report 5/2/98).

El cese el fuego es el primer paso del llamado Acuerdo Lincoln de Paz, Seguridad y Desarrollo, concluido el 23 de enero de 1998 en Christchurch, Nueva Zelanda, y luego endosado por el Concejo de Seguridad de la ONU. En una declaración del 13 de mayo de 1998, el secretario de BIG y el representante internacional, Miriori, dejaron en claro que el acuerdo de cese el fuego se produjo porque BRA ganó la guerra y forzó a PNG a la mesa de negociaciones. El cese el fuego entró en vigencia a la medianoche del 30 de abril de 1998. La paz será seguida por una ayuda económica sustancial de parte de Nueva Zelanda y Australia. La Unión Europea, la Cruz Roja Internacional y las Naciones Unidas también "ayudarán" a Bougainville en su desarrollo futuro.

Delegados en las conversaciones de paz en el Campamento Militar de Burnham (Foto: Dean Kozanic).

566

La cuestión de una reapertura de la mina de Panguna de propiedad de la empresa anglo-australiana Rio Tinto (que opera en tierras arrendadas a terratenientes de Bougainville), que hace diez años proveía casi la mitad del ingreso total en concepto de exportaciones de PNG, no ha sido hecha parte del proceso de paz. Los terratenientes indígenas han protestado contra las operaciones de la mina desde su apertura en 1969. Ha causado un tremendo daño ambiental. Finalmente, la insatisfacción con la mina desató la guerra. Como muchos otros pueblos indígenas, los bougainvilleanos comprendieron que sólo a través de la autodeterminación podrían determinar libremente cómo y cuándo querían usar sus propios recursos.

No obstante, el presidente de BIG, Francis Ona, cree que la reapertura de la mina está en la agenda oculta de los australianos, y es muy escéptico sobre los motivos de éstos en el proceso de paz. (Es bien sabido que Australia armaba y entrenaba a las fuerzas armadas de PNG durante la guerra). Por esta y otras razones, Ona no ha endosado el acuerdo de cese el fuego que se dice él considera como una "liquidación". Él convoca a un referéndum sobre la independencia. Se ha pedido al gobierno de las islas Salomón que medie entre Ona y los líderes que apoyan el cese el fuego, incluyendo al vicepresidente de BIG, Joseph Kabui, el Comandante de BRA, Sam Kauona, y los dos representantes internacionales de BIG, Martin Miriori, que vive en Holanda y Moses Havini, que reside en Australia. De acuerdo con el Acuerdo Lincoln, la cuestión de la independencia ("la cuestión política") debe ser encarada en otra ronda de conversaciones antes de fin de junio de 1998 - con la condición de que PNG haya comenzado a retirar sus fuerzas armadas para ese entonces. Además, las Fuerzas de Defensa de PNG deben haber abandonado Bougainville en septiembre de 1998 como requisito previo para celebrar elecciones libres y democráticas antes del 31 de diciembre de 1998, para un nuevo "Gobierno de Reconciliación de Bougainville" (BRG).

Algunos observadores sostienen que el Acuerdo Lincoln implica claramente que el control de PNG sobre Bougainville ha terminado, y que el BRG presionará sin duda por la independencia política. Sin embargo, el primer ministro de PNG, Bill Skate, proclamó repetida-

mente que la independencia para Bougainville "no es negociable". El proceso de paz no va a ser fácil...

La isla de Bougainville (Provincia de Salomón Norte), ahora devastada por la guerra y la minería, fue otrora la más rica de las diecinueve provincias de Papúa Nueva Guinea. Mientras que la mayoría del pueblo de Bougainville quiere la independencia, otros quieren que Bougainville se convierta en parte del estado nacional independiente de las Islas Salomón, con quienes Bougainville ha tenido tradicionalmente fuertes lazos económicos y culturales. No se sabe cuántos bougainvilleanos quieren seguir siendo parte de PNG.

Para complicar aun más la situación, el primer ministro de PNG tiene una relación amistosa con el gobierno indonesio, el cual en realidad está colonizando la parte occidental de la isla de Nueva Guinea, la población melanesia de Papúa Occidental. Bill Skate apoyaba al ex presidente Suharto y todavía tiene planes de discutir la cooperación entre las fuerzas armadas de los dos países. Indonesia está oprimiendo a los pueblos de Papúa Occidental y Timor Oriental bajo un régimen terrible. Indonesia tiene fuertes intereses en mantener a Irian Jaya a causa de la mina Freeport en la que el gobierno tiene una parte y recibe ingresos sustanciales de la misma. Como paralelo a la situación con la mina Panguna de Bougainville, Freeport está causando una importante destrucción del medio ambiente y ocasiona el desplazamiento de los habitantes locales.

La minería del fosfato de las islas Nauru y Banaba en **Kiribati** es otro ejemplo extremo de la magnitud de la destrucción ambiental creada por los proyectos mineros. Banaba, o Isla Ocean, fue explotada por la British Phosphate Corporation (BPC, de propiedad del Reino Unido, Australia y Nueva Zelanda) hasta su independencia en 1979. Los banabanos viven hoy en la isla de Rabi, de Fiyi, que la BPC compró en 1942 con regalías mineras para asentar a los banabanos en algún lugar donde no molestaran al proyecto minero. Los 4.500 habitantes de Rabi forman un enclave *i-kiribati* en Fiyi, con su propia lengua, cultura e instituciones sociales. Si bien la isla de Banaba va a ser objeto de un programa de rehabilitación financiado por los tres poderes coloniales

involucrados en la BPC, se han encontrado depósitos de oro en Rabi. ¿Se repetirá la historia?

Aumenta la cantidad de acuerdos entre las compañías multinacionales, los países del primer mundo y las naciones isleñas del Pacífico relativos a la minería del fondo del mar. Las Islas Cook firmaron en septiembre de 1997 un acuerdo de $430 millones relativo a cobalto, níquel y cobre. Se han encontrado ricos depósitos fuera de la costa de PNG.

Las fronteras artificiales originadas por la partición del Pacífico por los poderes coloniales han creado problemas para otras naciones además de Bougainville. En 1997, Samoa Occidental cambió su nombre por Samoa, o el Estado Nacional Independiente de Samoa. Samoa Americana no tomó esto a la ligera y amenazó con rechazar a las personas que tuvieran un pasaporte de "Samoa" en la frontera. Esto fue una amenaza importante, ya que la mayoría de la población de Samoa Americana es realmente de Samoa.

Retroceso

Con el fortalecimiento, en años recientes, de las demandas de los pueblos indígenas por el respeto de sus derechos humanos a través de la cooperación internacional y regional y la autoeducación, ha seguido una reacción hostil del orden constituido. Esto es especialmente obvio en los "países del primer mundo". Mientras que grupos progresistas fuera de las comunidades indígenas apoyan de hecho la lucha indígena, personas de significación y grupos importantes de personas se sienten amenazados por las demandas, e incluso usan a los pueblos indígenas como chivos expiatorios para sus políticas económicas fallidas.

Dentro del movimiento por los derechos *maori*, algunos grupos quieren una Nación Maori reconocida por la comunidad internacional. Solicitan a las Naciones Unidas la inclusión en la lista de territorios no-autónomos, pero el gobierno de Nueva Zelanda está tratando de controlar la autodeterminación que ansían los pueblos indígenas. La Corona, define la autodeterminación como "gobernación", o "autoridad limitada". Algunos maori aceptan a esta como el *tino rangartiratanga* final, soberanía o autodeterminación, mientras que otros lo ven

sólo como un primer paso hacia la autodeterminación, y como tal peligrosa, porque el proceso está concebido por el gobierno colonial. Los maori conforman el 15% de los desempleados, más del doble que cualquier otro grupo étnico.

El Tribunal Waitangi y los tribunales de Aotearoa siguen apoyando los derechos maories. Pero falta la implementación de la legislación y la financiación de esos derechos además del apoyo popular. El Informe Rural Muriwhenua de 1997 reconoció por primera vez en la historia reciente la interpretación maori de las primeras transacciones de tierra, pero el gobierno no ha hecho un seguimiento de esto.

Este modelo y debate se parecen a la situación de los *kanaka maoli* en **Ka Pae'aina** (Hawai'i). Una serie de grupos, incluyendo algunos apoyados y básicamente financiados por el gobierno federal y estatal, procuran la autodeterminación de formas diversas. El fuerte movimiento con miembros bien educados y articulados ha logrado crear un discurso marcadamente diferente en el público, en la legislatura y en las salas de los tribunales durante los últimos 25 años. Desgraciadamente, la conciencia pública y el reconocimiento judicial de los derechos indígenas también hicieron vulnerables los derechos a los ataques públicos. Una sentencia de la suprema corte de 1995 causó un tumulto en los centros de poder. Esta sentencia afirmaba el derecho nativo en un caso controvertido relativo al desarrollo de un área usada para sus objetivos tradicionales y consuetudinarios. Esta afirmación también afirmaba los derechos ancestrales al acceso y a la recolección que han sido codificados desde 1850. Las actuales leyes de Hawai'i incluyen casi en forma textual, la sección relevante de la ley de 1850 en su forma original. La conciencia del público y de los círculos empresariales de la existencia de estos derechos causó, sin embargo, repetidos intentos de cambiar la ley y restringir los derechos indígenas en recientes sesiones legislativas. Además, es probable que sea una de las razones importantes para sugerir una convención constitucional en las elecciones de 1998. Abundan los proyectos legislativos estatales y federales para la creación de algún tipo de "autonomía" hawaiiana. Como el gobierno de Nueva Zelanda, el de los EE.UU. también tiene una definición restringida de la autodeterminación como una autonomía interna, tal como lo atestiguaron las intervenciones en la última reu-

nión del Grupo de Trabajo Intersesional sobre el Proyecto de Declaración de los Derechos de los Pueblos Indígenas en Ginebra, en 1997.

Los micronesios y samoanos de Hawai'i han experimentado últimamente diversos intentos de limitar sus derechos. Recientemente, la Autoridad de Viviendas de Hawai'i declaró que los isleños de las posesiones de los EE.UU. en el Pacífico eran "extranjeros" y por lo tanto, no podían recibir asistencia para la vivienda. En una economía como la de Hawai'i con precios de la tierra que se van por las nubes, donde la vivienda es muy cara a causa de la inversión extranjera y la especulación de tierras, una medida como la mencionada antes, desalojará efectivamente a miles de personas de sus hogares.

En Australia se puede encontrar sentimientos públicos similares y contundentes retrocesos de los derechos indígenas, donde el racismo abierto de la mayoría blanca es un asunto de seria preocupación a causa de las próximas elecciones y los intentos del plan Wik de diez puntos de revertir los logros del reconocimiento del título nativo afirmado por el caso Mabo de 1992. En Queensland, el "Partido Una Nación" parece que obtendrá el 15% de los votos en las elecciones de 1998 en base a una política de ataque los pueblos indígenas de Australia. El líder del partido declaró recientemente en un discurso en el parlamento que los "aborígenes sólo están interesados en los derechos al título nativo por razones financieras". La misma persona caracterizó al Proyecto de Declaración sobre los Derechos de los Pueblos Indígenas como una "escandalosa liquidación del pueblo australiano [que] arrancará el corazón de nuestro país y entregará ese corazón a uno de nuestros grupos minoritarios más pequeños".

El gobierno australiano también decepcionó a los pueblos indígenas de Australia y del Estrecho Torres con su negativa a disculparse a las "Generaciones Robadas" (ver más adelante).

Colonialismo nuclear y militar

Durante más de cincuenta años el Pacífico ha sido "el campo de juego nuclear" de Francia y los EE.UU. fundamentalmente, pero también del Reino Unido. A partir de 1975 los isleños del Pacífico han presentado un frente unido contra las pruebas nucleares y el vaciamiento de

desechos nucleares y desde 1985, mediante el Tratado de Rarotonga, el Pacífico Sur ha sido declarada una Zona Libre de Armas Nucleares. En abril de 1998, Richard Salvador, de Belau, representando a los pueblos indígenas dio un discurso en el Plenario del 2º Comité Preparatorio del Tratado de Proliferación de Armas Nucleares en Ginebra. El celebrado discurso fue ampliamente difundido a través de las redes electrónicas y citaremos algo del mismo. Salvador dijo:

> Durante una docena de milenios, el vasto Pacífico ha sido nuestro hogar. Como pueblos isleños, hemos vivido cuidados por nuestra madre y ella es nuestra. Pero con el comienzo del imperialismo, nuestras islas han sido arrasadas por los europeos, los americanos y los asiáticos. El poder y la potencia de estos poderes coloniales fueron cruciales para explotar y mantener al Pacífico como un campo nuclear, un sitio de pruebas y de vaciamiento de materiales nucleares. (Discurso de Salvador en la NTP PrepCom, Ginebra, abril de 1998).

La importancia estratégica militar inicial de las islas del Pacífico como estaciones y puertos de abastecimiento ha disminuido ahora, pero el colonialismo nuclear posterior a la Segunda Guerra Mundial ha conducido al desposeimiento de los pueblos, a la enfermedad y a la muerte de los pueblos y de las islas.

Como lo atestigua una previsión de libertad de armas nucleares de la constitución de 1979 de **Belau,** como la ONG regional un Pacífico Libre de Armas Nucleares e Independiente establecida con el apoyo de las mayorías de las naciones gobernadas por indígenas y los movimientos independentistas, los isleños del Pacífico están generalmente en una fuerte y expresiva oposición a las pruebas, el transporte, el vaciamiento y el almacenamiento de materiales nucleares.

> En mi nación isleña, Belau, decidimos crear una nación isleña libre de materiales nucleares. Eso parecía una idea noble, pero apenas comenzamos a poner en marcha la construcción de nuestra nación, nuestra Autoridad Administrativa de la ONU hizo una burla de nuestra genuina práctica de la democracia. Realizamos más de diez referéndum para negar los planes del Pentágono americano de quebrantar nuestra Constitución libre de materiales nucleares. Nos dimos cuenta muy pronto que la promoción de

> la democracia era un mero juego retórico. Dijimos "NO" cada vez que tuvimos un referéndum sobre la cuestión de permitir armas nucleares en nuestro territorio. Nuestro primer presidente fue asesinado, y los resultados de cada referéndum subsiguiente fueron descartados, siendo la razón que los imperativos militares tenían preferencia sobre los deseos y aspiraciones democráticos de una nación y su pueblo (ibid.).

Todos los aspectos del ciclo nuclear involucran la tierra de los pueblos indígenas (se estima que el 70% de los recursos de plutonio del mundo está localizado en tierras indígenas): desde la infraestructura necesaria para los establecimientos mineros y de pruebas y la misma minería del uranio para la prueba de armas nucleares, y el vaciamiento, el almacenamiento y transporte de plutonio y desechos nucleares. De acuerdo con Salvador, los pueblos indígenas creen que el uranio debería permanecer en manos de la Madre Tierra, porque "ninguna otra fuerza es capaz de contener la amenaza tóxica de la radioactividad" (ibid.).

La comprensión básica de las comunidades indígenas del Pacífico sobre la seriedad de la situación es la razón del masivo apoyo regional a las protestas de los dueños de tierras tradicionales de Jabiluka, el pueblo *mirrar*, contra una propuesta mina de uranio en sus tierras, ubicada en la región de Kakadu en el Territorio del Norte de Australia.

Citando la Declaración de 1997 de Moorea hecha por Abolición 2000, los "pueblos colonizados e indígenas han [...] soportado el embate de esta devastación nuclear". Salvador concluye que los pueblos indígenas son víctimas de la era nuclear, pero que ellos

> [...]tratan de trascender un sacrificio mayor demandando y haciendo un llamado por el cese final de estos actos genocidas del colonialismo nuclear. [...] La paz genuina sólo puede comenzar a emerger cuando las naciones del mundo comiencen a desmantelar las instalaciones militares y nucleares que ahora dominan el Pacífico entero desde Guam a Hawai'i y la Polinesia Francesa". (ibid.)

Las pruebas nucleares han sido ahora detenidas en el Pacífico, pero el vaciamiento y el almacenamiento de desechos nucleares y otros desechos tóxicos en atolones ya contaminados es seriamente discutido por los líderes del Pacífico (ver más adelante). Además, a pesar de

la declaración de la Zona Libre de Armas Nucleares del Pacífico Sur, continúa el transporte marítimo de materiales nucleares a través del Pacífico, como el viaje del *Pacific Teal* de Francia al Japón, transportando plutonio y desechos de alto nivel radioactivo.

Las serias consecuencias de las pruebas y el trabajo con materiales nucleares se han hecho conocer sólo gradualmente al mundo y todavía son negadas por las autoridades francesas. Recién hace muy poco se ha publicado información confiable sobre la situación de la Polinesia Francesa en base a minuciosas investigaciones de las consecuencias de las pruebas nucleares. En cooperación con diversas iglesias y organizaciones europeas de apoyo, Hititau ("Momento de Actuar", una red de ONGs de la nación maohi) realizó en 1996 una investigación sociológica sobre las consecuencias de las pruebas nucleares sobre las vidas y la salud del pueblo maohi de la Polinesia ocupada por Francia. Fueron entrevistados 737 trabajadores de diez a quince mil que habían trabajado en el "Centre D'Expérimentations du Pacifique (CEP)". El estudio está documentado en el completo informe "*Moruroa y nosotros - Experiencias polinesias durante treinta años de pruebas nucleares en el Pacífico francés*" (Pieter de Vries & Han Sur (eds) Centre de Documentation et de Recherche sur la Paix et le Conflits. Lyon 1997; ver *Asuntos Indígenas* 1997:3-4).

Este es un estudio muy importante, porque las autoridades francesas han destruido o prohibido el acceso a los registros de salud y continúan brindando información parcial y deliberadamente engañosa que distorsiona la imagen de las consecuencias de las pruebas. Tan recientemente como en junio de 1998, la Agencia Internacional de Energía Atómica informó que las pruebas nucleares en Moruroa en 1995-96 no habían causado ningún problema de salud o ambiental... Hititau está desarrollando también vías económicas alternativas para evitar el complejo económico en torno al turismo.

De la misma manera, las islas de los ex Territorios en Administración de Indonesia han sido usadas, y lo siguen siendo, para objetivos militares estratégicos y pruebas militares. Dependen sumamente de los Estados Unidos y están luchando contra convenios de pago en constante disminución.

A las **Islas Marshall**, según el Convenio de Libre Asociación con los Estados Unidos, se les ha otorgado casi quinientos millones de dólares en concepto de compensación por daños, programas médicos y monitoreo ambiental. Pero desde que se hizo el acuerdo se descubrió que la precipitación radioactiva en la atmósfera de las 67 pruebas afectan a mucho más islas que lo que se había anticipado y cubierto por el acuerdo del convenio de comienzos de los años 1980, el cual descartó toda demanda futura y negó a las Islas Marshall la opción de un proceso judicial en los EE.UU.

La propuesta del gobierno de las Islas Marshall de almacenar "desechos nucleares de bajo nivel" en las islas refleja la desesperada economía de la república. Fue enfrentada por una oposición vehemente por parte del pueblo, las víctimas nucleares. Después de una oposición popular abrumadora, el primer ministro Imata Kabua declaró un "congelamiento" de los planes, pero en septiembre de 1997, se reveló un acuerdo secreto entre el gobierno y los Servicios Ambientales Nucleares B&W de los EE.UU. para explorar las posibilidades de almacenamiento de desechos nucleares en el Atolón Wotho.

Mientras que el gobierno planea almacenar desechos nucleares, los líderes de Rogelap, cuya isla ha sido deshabitada desde 1985 después de la evacuación por temor a la continua radiación de la bomba de hidrógeno Bravo de 1954, están planeando rehabilitar su isla, para poder retornar a casa. También el pueblo de Bikini quiere volver a casa. Los bikinianos fueron evacuados antes de las pruebas nucleares de 1946 y otra vez en 1978 después de retornar en los años 60 a una isla supuestamente segura. Los EE.UU. acordaron ahora otorgar fondos para limpiar Rogelap, Bikini y Eneu, las dos islas principales del Atolón de Bikini. El programa de limpieza fue iniciado en febrero de 1997, cuando ochenta bikinianos retornaron a la isla por primera vez después de cincuenta años para conmemorar el "Día de Bikini".

Con el apoyo del Banco Mundial, un consorcio noruego, ruso y ucraniano, Sea Launch Ltd. planea lanzar satélites comerciales desde una vieja plataforma petrolífera noruega ubicada en aguas internacionales cerca de **Kiribati**. Sea Launch de abril de 1997 es de propiedad de Boeing en un 40%, un 25% de una compañía rusa, 20% de una noruega y 15% de una ucraniana. Se espera que los casi 200 satélites

comerciales en órbita se expandan a mil para el año 2000, por lo que esto es un gran negocio - especialmente considerando que los lanzamientos están en el orden de los quinientos millones de dólares cada uno...

Mientras que Kiribati está tratando de desarrollar Kiritimati (Islas Christmas) como un puerto espacial, la estación de seguimiento de misiles de los EE.UU. y la zona de impacto de la Base de Misiles Kwajalaein para misiles balísticos disparados de Vandenberg, en California, se va a comercializar y ofrece también facilidades de lanzamiento de satélites al espacio, aparte de posibilidades para "pruebas operacionales y de desarrollo de misiles interceptores", etc. Japón sigue el ejemplo de los EE.UU., la Agencia Nacional de Desarrollo Espacial de Japón está haciendo compras en el Pacífico para seguimiento de satélites y aterrizaje de misiles en la Isla Christmas, en el este de Kiribati. El proyecto de varios miles de millones de dólares incluye un hotel de 200 habitaciones y establecimientos de apoyo.

El ejército de los EE.UU. alega que necesita otros diez años para incinerar las cantidades restantes de armas químicas y los gases de mostaza y los gases que atacan el sistema nervioso almacenados en la Isla Kalama (Atolón de Johnston). Un Comunicado de la reunión del Foro del Pacífico Sur de septiembre de 1997 hizo un llamado por una clausura permanente del Sistema de Destrucción de Agentes Químicos del Atolón de Johnston (JACADS) cuando el actual programa de destrucción de armas y agentes químicos esté terminado. El Senado de los EE.UU. prohibió más transportes de armas químicas a Kalama. El permiso original fue emitido en 1985 por diez años, comenzando en 1990.

Como consecuencia de la globalización económica y la militarización, hoy en día, los desafíos ambientales del Pacífico son enormes. Al vaciamiento de desechos peligrosos, quemas de agentes químicos, transportes nucleares, bio-piratería, pruebas nucleares se le suma la infraestructura del desarrollo, el monocultivo, la minería, la construcción de represas, la explotación maderera y el establecimiento de áreas de pasturas y la agroforestería. Existe degradación y apoderamiento de tierras para el desarrollo de balnearios turísticos, centros comerciales,

canchas de golf y condominios. El océano está sobre-explotado a causa de la minería de aguas profundas y la pesca excesiva con grandes barcos de alta mar, pertenecientes generalmente a compañías extranjeras que han arrendado los derechos pesqueros de la gente que no puede adquirir el equipo por sí misma. Incluso las naciones que están tratando de mantener el control sobre la pesca tienen dificultades para implementar las reglamentaciones para que los otros se mantengan fuera o paguen. Un pequeño estado nacional como Tuvalu, no tiene simplemente los recursos para patrullar sus extensas aguas en la Zona Económica Exclusiva ni el poder para expulsar a los violadores como los EE.UU., donde recientemente ha habido una reunión de pesqueros que violan la moratoria internacional de la pesca con redes de arrastre en el Pacífico Norte.

El tema del cambio climático es especialmente importante para los pequeños estados isleños - como consecuencia de la explotación maderera, pero también como consecuencia del calentamiento global. Es un impacto real que ya amenaza la misma supervivencia y existencia de los isleños. ¿Tendrán sus hijos y nietos un lugar para vivir? En la Tercera sesión de las Partes del Convenio de la ONU sobre Cambio Climático en Kyoto, Japón, en diciembre de 1997, los representantes del Pacífico dejaron en claro que sus islas ya sufren del resultado del cambio climático: hay una creciente frecuencia de ciclones, tornados, inundaciones y alteraciones de las mareas. Sólo en 1997, Tuvalu fue golpeada, por ejemplo, por tres ciclones devastadores. Los costos provenientes de esto aumentan la dependencia de la ayuda extranjera.

También Guam y Tahiti fueron duramente golpeadas por catástrofes naturales. El representante de FSM dijo en una declaración:

> El Preámbulo de la Constitución de los Estados Federados de Micronesia establece que los océanos no nos separan, más bien, nos unen. La afirmación se aplica no sólo a los isleños sino al mundo como un todo. Tiene una particular importancia para nuestro objetivo común de proteger el clima global. Somos todos isleños, unidos por los mares [...] Mientras que hoy estoy parado aquí, las naciones del mundo se dan el lujo de encarar un debate, mezcla de científico e intelectual, sobre el cambio climático, lo cual suena demasiado parecido a la eterna discusión económica Norte-

577

> Sur [...] pero desde nuestro punto de vista en Micronesia [...] debemos ocuparnos del desafío del cambio climático global en un sentido mucho más urgente, es decir, en términos de nuestra mortalidad cultural y geográfica.

En nombre de AOSIS, el representante de Samoa subrayó en la misma reunión que la elevación del nivel del mar plantea un peligro sumamente grave para los pequeños países isleños, pues erosiona el ya escaso territorio, amenazando a los arrecifes e invadiendo los recursos de las aguas bajas. Los representantes de Nauru, quienes habían venido a costa de grandes gastos para su pequeña nación, criticaron la renuencia a acordar reducciones significativas de emisión de gases de invernadero: "Se nos está acabando el tiempo". El resultado de la conferencia fue que al fin, las naciones industrializadas se comprometieron a una reducción que suma menos del 20% de lo que las 35 naciones de AOSIS habían promovido.

La práctica de producción y almacenamiento de desechos peligrosos en comunidades pobres se llama hoy "racismo ambiental".

Globalización y dependencia económica

Los pueblos y los recursos del Pacífico son amenazados, además, por las nuevas e intensificadas formas del colonialismo y la explotación a través de la globalización. Muchos estados nacionales isleños del Pacífico son hoy sociedades multiétnicas que forman parte de una economía global controlada por redes internacionales de comercio y corporaciones transnacionales. Las iniciativas económicas parecen estar bloqueadas en el bien establecido paradigma del desarrollo turístico, con muy poco espacio para visiones y alternativas.

El sugerido Acuerdo Multilateral sobre Inversiones asusta incluso a los economistas del Banco Mundial si se hace realidad, pues eliminará todos los impedimentos para el libre flujo del dinero. Esto se convertirá en el "más grande tifón que haya golpeado alguna vez el Pacífico". Sin embargo, en primer lugar, la oposición internacional de un "grupo global de organizaciones de base" difundida vía Internet mató la propuesta. Esta es probablemente la primera vez en la historia que pasa algo como esto. Los acuerdos comerciales y otros acuerdos

internacionales todavía están vigentes y deben ser monitoreados cuidadosamente por los pueblos indígenas.

La ayuda es todavía un factor de importancia en las economías del Pacífico. La participación de los ex poderes coloniales en el proceso de paz de Bougainville podría conducir a la conocida senda del control a través de la dependencia si las naciones y las organizaciones internacionales involucradas no se retiran de las posiciones de control. A la ayuda sigue la explotación y control, no sólo sobre los recursos terrestres y oceánicos, sino también sobre cómo los isleños del Pacífico se gobiernan a sí mismos y dan forma a un desarrollo cultural, social y económico. No sólo refuerza la dependencia material sino que también fortalece la dependencia psicológica. Esto es exactamente opuesto a la autodeterminación, de acuerdo con las normas internacionales.

Las naciones isleñas del Pacífico y sus pueblos se enfrentan a una profunda crisis económica. Los intentos de aliviarlos se realizan a través del marco económico occidental de la privatización de tierras y aguas, el turismo (que a pesar de los desalentadores ejemplos de Hawai'i, Guam y FSM sigue siendo un foco de esperanza), el registro de tierras, el registro de barcos, el transporte libre de impuestos, los paraísos impositivos, e incluso las estaciones de cuarentena para animales.

Los factores importantes de las economías son -además de los ex poderes coloniales y los nuevos "socios comerciales" de EE.UU., Australia, Nueva Zelanda y el Reino Unido, respectivamente Japón, Corea y China- los bancos de desarrollo que imponen agendas políticas y económicas específicas a los pueblos receptores.

La urbanización crea serios problemas con la pérdida de los medios de subsistencia, la autosuficiencia y la autoconfianza, contribuyendo a un crecimiento de la violencia y el consumo de alcohol y drogas.

Algunos países como las naciones isleñas polinesias, están caracterizados por una tasa sumamente alta de emigración que ha originado familias globales y una economía basada en los envíos de dinero. La economía y el estilo de vida del país se hacen dependientes de la ayuda externa y los envíos.

573

Redes y política indígenas

Muchos pueblos del Pacífico están en situaciones que los fuerzan a luchar continuamente por los derechos humanos básicos, como los derechos a la autodeterminación, los derechos al control sobre la tierra, los océanos y otros recursos y los derechos a determinar su integridad y desarrollo político, económico, social y cultural.

Los isleños se están identificando con conceptos subregionales melanesios, polinesios y micronesios, al mismo tiempo que la solidaridad del Pacífico se convierte cada vez más en un foco de identidad, creada y mantenida en oposición a los poderes (neo)coloniales. Esta conciencia regional, sustentada por tradiciones viajeras y medios modernos de comunicación, electrónicos y físicos, deja en claro que Oceanía está realmente unida por el mar.

En septiembre de 1997, delegados de 18 pueblos y naciones isleños del Pacífico establecieron el Grupo de Trabajo por los Derechos Indígenas (IRWG) bajo la organización regional de ONGs, PIANGO. IRWG trabaja con PIANGO y con PCRC/NFIP y otras ONGs del Pacífico para informar, educar y aumentar la conciencia sobre los derechos de los pueblos indígenas. PIANGO fue formada en 1990 en Pago Pago, Samoa, para facilitar la comunicación, presentar una voz común en los foros regionales e internacionales y desarrollar identidades del Pacífico, unificar culturas y acción social para mejorar el bienestar de las comunidades isleñas.

La cooperación indígena regional e internacional está quebrantando la mentalidad colonial establecida, a través de una estrategia para la descolonización, comenzando con la educación, el uso de las lenguas nativas y una mayor importancia acordada al vivir sustentablemente - para lo cual los isleños del Pacífico tienen modelos al alcance de la mano. En estos procesos de reconstitución comunitaria, las bases territoriales son fundamentales para sustentar una existencia. Las luchas por la tierra son, por lo tanto, hoy fundamentales para los movimientos del Pacífico por los derechos indígenas.

La autodeterminación y la descolonización son consideradas como los derechos más básicos de los pueblos indígenas, siendo condición previa para el cumplimiento de todos sus otros derechos humanos (ver

artículo de Trask en *Asuntos Indígenas* 98:1). Como dijo el líder de la soberanía kanaka maoli, Kawaipuna Prejean en la reunión de la Comisión de Derechos Humanos de la ONU en 1991, sin autodeterminación, la degradación ambiental y la explotación de la tierra y los pueblos no se detendrá, y los isleños del Pacífico no serán capaces de proteger su medio ambiente y su cultura para su propio bien y para el futuro de la humanidad. Para citar otra vez a Richard Salvador:

> Deseamos afirmar nuestro derecho a preservar la naturaleza de nuestras relaciones con la tierra, como lo hemos hecho durante generaciones como pueblos Indígenas. El destino de la tierra está en manos del adecuado cuidado de las tierras y aguas, no mediante la amenaza de destruir la tierra y sus habitantes para mantener el dominio y la hegemonía. La sabiduría de las relaciones de los pueblos Indígenas con la tierra es la obligación recíproca de cuidar la tierra, tal como ella cuidará de nosotros. Las voces de los pueblos Nativos, tan popularizadas en estos tiempos atemorizadores, hablan un lenguaje diferente que el viejo nacionalismo mundial. Nuestros reclamos de unicidad, de integridad cultural, no deberían ser malentendidos. No somos cuidadores de montones de armas sino de la tierra, nuestra madre, y ofrecemos una sabiduría antigua, umbilical, sobre cómo proteger y asegurar su vida. [Nuestras tierras no son] el basurero del mundo. [...] Retornaremos a nuestros hogares para presionar para poner fin al transporte, el almacenamiento y el vaciamiento de desechos nucleares en el Pacífico, la limpieza y el continuo monitoreo de las áreas contaminadas y apoyar a los trabajadores de los lugares de pruebas afectados por las pruebas nucleares.

Fuentes

Comunicados de las Naciones Unidas, el Departamento de Servicios de los Organismos para el Desarme y la Descolonización y otros organismos de la ONU. Resoluciones, comunicados y declaraciones de reuniones internacionales y regionales; periódicos y boletines como *Pacific News Bulletin*, publicado por el Centro de Intereses de Recursos del Pacífico, *Contemporary Pacific*, *Asuntos Indígenas*, numerosas páginas web y mensajes de correo electrónico y discusiones, incluyendo "Pacific Islands Reports". Comunicaciones personales.

Papúa Occidental

Papúa Occidental ha experimentado la peor sequía "que se recuerda" desde septiembre de 1997. Esto ha causado desnutrición, hambre y una explosión de malaria. La tuberculosis está extendida. De acuerdo a informes periodísticos, las muertes debido al hambre y las enfermedades transmitidas por el agua sumaban más de 140 el 20 de septiembre, aumentando a más de 275 una semana después y escalando a 413 hacia el 7 de octubre. Mientras tanto, las cifras pueden haber llegado a miles. Se dijo que los incendios en las áreas cercanas estaban dificultando los vuelos con suministros de ayuda para las aldeas aisladas y hambrientas. El 26 de septiembre, el Yakarta Post informó que 80.000 hectáreas habían sido afectadas por los incendios, incluyendo parte del Parque Nacional Lorentz. La agencia Antara News informó que los incendios se habían extendido a la vecina Papúa Nueva Guinea, destruyendo un campamento limítrofe habitado por 600 refugiados políticos de Papúa Occidental. En las áreas afectadas por la sequía, la gente no tiene alimentos ni nada que sembrar el próximo año. La helada se ha sumado a la sequía en las áreas de mayor altitud, y también ha destruido la cosecha fundamental de cassava. De acuerdo con la organización de caridad World Vision, se estima que 200.000 personas son afectadas por la carencia de alimentos y la situación empeorará en los próximos dos meses a causa de las cosechas fallidas.

La Cruz Roja Internacional ha tratado de ayudar - desde octubre del año pasado, pero le ha sido negado el acceso a las áreas necesitadas desde el mes de febrero de este año. Existe una notable discrepancia entre la ayuda de emergencia en las partes orientales y occidentales de la isla de Nueva Guinea. Últimamente, Australia decidió disponer una gran cantidad de dinero para la ayuda, la cual es distribuida por sus fuerzas armadas en colaboración con ABRI, las fuerzas armadas indonesias. Estas últimas son los principales violadores de los derechos humanos en Papúa Occidental. Abundan las historias de sus torturas y asesinatos. Y trabajan en forma estrecha con la administración minera.

Se sospecha que la falta de voluntad del gobierno de Indonesia para ayudar al pueblo golpeado por la sequía es una política delibera-

582

da. El gobierno indonesio es dueño del diez por ciento de la mina Freeport, (para no mencionar los impuestos y otros beneficios - estimados en US$480 millones en 1998)- la mina de oro más grande del mundo y la tercera mina de cobre del mundo de propiedad mayoritaria de la Compañía Freeport McMoran, de los EE.UU. También la empresa australiana Rio Tinto, conocida por la mina Panguna en Bougainville, es accionaria de la mina. Algunos de los pueblos golpeados más duramente por la sequía son los am*ungme*, quienes viven en el área minera y han estado protestando contra las operaciones de la mina y la destrucción ambiental durante décadas. La mina está en proceso de expandir su producción (una expansión planeada del 60%). El ejército ya está en su lugar, y también en expansión, pagado por Freeport. Se espera que 350 familias sean "desplazadas". Grandes cantidades de "tailings" (material de desecho de las operaciones mineras) están siendo ya vaciados en el sistema fluvial. La mina Ok Tedi tuvo que pagar a los pueblos indígenas que viven río abajo 150 millones que dólares de compensación por la destrucción y por los costos de limpieza causados por sus vaciamientos en el sistema del río Fly, luego de una demanda judicial en 1996. "Sólo" vaciaron 80.000 toneladas de desechos *por día*. Freeport vacía (antes de la expansión) 200.000 toneladas en el sistema del río Ajkwa por día.

Papúa Occidental es reconocida por los pueblos indígenas del Pacífico y sus varias organizaciones como colonizada y debería ser reinscrita en la lista de la ONU de territorios no-autónomos. Papúa Occidental se transformó en parte de Indonesia en 1969 después de una farsa de proceso de descolonización de la ONU, incluyendo un "acto de libre opción", en el cual el referéndum requerido fue reemplazado por una votación de 1.022 representantes de los 720.000 papuanos para la inclusión a Indonesia. La protesta de los papuanos dio una buena excusa al ejército indonesio para reprimir a la población indígena. Desde entonces se han sucedido el desplazamiento, la transmigración, la tortura, la violación, etc., pero la OPM (Organisasi Papua Merdeka-Movimiento Papúa Libre) todavía está luchando por la autodeterminación y la independencia para su pueblo melanesio.

Existen indicios de que el hambre de las tierras altas no se debe enteramente a las sequias. Puede ser también un desastre causado por el hombre, vinculado a la elevada cantidad de tropas que hay en la región. Desde que miembros del ejército guerrillero de Papúa Occidental, OPM, tomaron como rehenes a científicos europeos a comienzos de 1996, las tierras altas han estado repletas de tropas indonesias. Han estado requisando alimentos e impidiendo atender sus huertas a los aldeanos sospechosos de colaborar con la OPM, negándoles así sus medios para abastecerse de alimentos.

Una misión investigadora recientemente realizada por la Asociación Misionera Cristiana (GKII) de la Región de Mimika, la Iglesia Católica Paroki Tiga Raja Timika y las Iglesias Cristianas Evangélicas en Irian Jaya (GKI) Klasis Mimika, dejó otra vez en claro cuán estrechamente interconectados están los intereses mineros del gobierno indonesio, la militarización y la continua violación de los derechos humanos contra el pueblo de Papúa Occidental. Parte del informe de la misión investigadora está impreso más adelante.

Desde el fin del drama del rescate de rehenes en la aldea de Nggeselema en las Tierras Altas Centrales de Irian Jaya, el 15 de mayo de 1996, hasta hoy, han habido alarmantes informes sobre los abusos experimentados por los ocupantes civiles de Jifa, Bela, Alama, Nggeselema, Jigi, Mugi, Mapnduma y otras aldeas en conexión con la presencia de tropas de las Fuerzas Armadas de Indonesia (ABRI) para aplastar a la OPM así como proteger el "vital proyecto nacional" de PT Freeport Indonesia.

La presencia fue marcada por la cantidad de puestos militares construidos en el tiempo de la crisis de rehenes que comenzó en enero de 1996 hasta el presente, comenzando en Port Site, Timika a lo largo del principal camino de PT Freeport Indonesia hasta Tembagapura y las aldeas de Banti, Arwanop, Tsinga, Howea, Jila, Bela y Alama, Jigi y Mugi, Neggeselema, Mapnduma.

Existen relatos de cómo se atemorizó la gente del área a causa de la presencia de las operaciones militares, hasta el punto que muchos residentes de diferentes aldeas en los valles de Bela, Alama y Mapnduma huyeron a los bosques y a otras aldeas en busca de seguridad. Más

de 1.000 civiles de 23 congregaciones de Gereja Kemal Injil Indonesia (GKII, la importante iglesia protestante de Irian Jaya) abandonaron sus hogares para esconderse en los bosques y en las cuevas de las montañas, o para huir a otras áreas que sentían como más seguras. Se informó que algunos huyeron a Eralmakawia, Jila, a unos 130 kilómetros al este de Tembagapura, mientras que otros huyeron al área étnica *nduga*, en el este, y otros buscaron refugio en el subdistrito de Ilaga, Paniai, así como en Timika y Tembagapura en el distrito de Mimika.

Los incidentes informados afectaron a gente que en su mayor parte son miembros del Gereja Kemal Injil Indonesia y de un consejo representativo del pueblo *amungme* conocido como LEMASA (Lembaga Musyawarah Adat Suku Amungme).

Funcionarios y miembros del GKII informan desde Bela y Alama, ubicadas a unos 150 kilómetros al este de Tembagapura que entre diciembre de 1996 y octubre de 1997, dieciséis personas fueron víctimas de violaciones de derechos humanos durante las operaciones militares. Trece de las víctimas eran de Bela y Alama, dos de Jila y las otras de Mapnduma. Once de las víctimas fueron muertas a tiros, dos "desaparecieron", y tres fueron heridas. En las mismas operaciones militares, en las cuales las fuerzas militares tenían no sólo la tarea de aplastar el Movimiento por una Papúa Libre (Organisasi Papua Merdeka u OPM) sino también asegurar el "vital proyecto" de PT Freeport Indonesia Inc. (PTI), las tropas quemaron 13 iglesias en 13 aldeas diferentes, 166 casas y 29 *ruma bujang* o "casas de hombres", una estructura tradicional.

Las violaciones de derechos humanos sucedieron después de una operación para liberar a un grupo de investigadores del World Wildlife Fund (WWF) (Team Lorentz, 95), quienes fueron tomados como rehenes por un grupo de la OPM liderado por Kelly Kwalik y Daniel Yudak Kogoya. La operación, liderada por unidades especiales de las fuerzas armadas (Kopassus), el Batallón de Infantería 753 de Paniai; el Batallón de Infantería 752 de Sorong; y el Batallón de Infantería 751 de Jayapura, tuvo como resultado la huida de la gente que vivía en el valle de Bela y Alama. Huyeron de miedo a las cavernas y bosques circundantes a Bela y Alama, así como a Ilaga. Sintieron que tenían que huir para protegerse porque en el curso de las operaciones milita-

res, las tropas habían disparado a la gente y a sus animales (cerdos, gallinas y perros), quemado sus casas y las iglesias del GKII.

En el curso de esta operación, un hombre fue muerto en Wajitagala en diciembre de 1996, otro en marzo de 1997 en las riberas del río Mokogom y otros en abril de 1997 en las riberas del río Tomogong. Seis personas fueron muertas a tiros en mayo de 1997 y otra fue muerta en Mapnduma en octubre de 1997. Con respecto a los cadáveres de estas víctimas, seis fueron simplemente cubiertos con hojas y luego fueron encontrados por sus familias y enterrados, mientras que otros cuatro fueron enterrados por el ejército. Además de estas víctimas de disparos, dos civiles fueron declarados desaparecidos y otro dos fueron heridos.

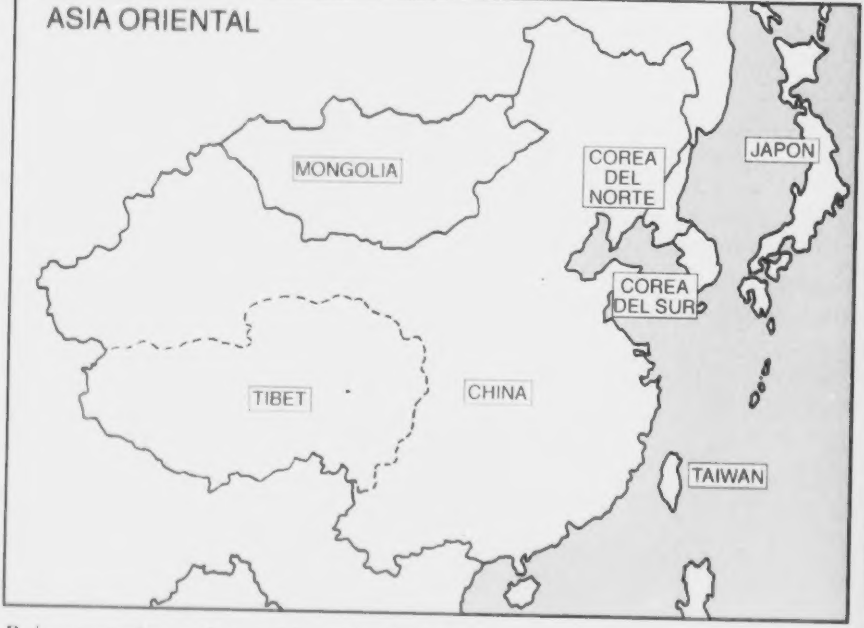
La gente a quien se disparó eran civiles que volvían de sus huertas en las cercanías de las aldeas para recoger alimentos, como batatas y maíz, ya que habían quedado sin alimentos en los lugares donde habían buscado refugio. La carencia de alimentos los había debilitado y los había hecho vulnerables a las enfermedades, lo cual tuvo como consecuencia que 15 personas murieron mientras que estaban desplazadas. La debilidad física de esta población era todavía visible después de que habían dejado sus escondites y habían retornado a sus casas. Otras dieciocho personas murieron de enfermedades después de su retorno alrededor de diciembre de 1997.

Los habitantes locales a quienes los tropas del ejército lograron reunir en aldeas fueron sumamente vigilados. No importa donde fueran, tenían que obtener permisos de viaje firmados por oficiales de seguridad, dificultándoles ir a sus huertas o de caza.

La tasa de muertes tiende a aumentar durante los últimos tres meses. Entre enero y marzo de 1998, murieron 28 personas en las aldeas, Tagalerma (19), Ningimtagalao (6) y Onimogom (3). La cantidad total de quienes murieron en cinco otras aldeas de Bela y cuatro en Alama es desconocida. Las muertes de aquellos que murieron durante y luego de su huida fueron causadas por debilidad general como resultado de la alimentación insuficiente y el hambre, vinculadas a las operaciones militares en las aldeas de Bela, Alama y Jila.

Las fuerzas armadas indonesias también quemaron trece edificios, incluyendo ocho iglesias en Bela y cinco en Alama, mientras que de

las 166 casas quemadas, 66 fueron en Bela y 100 en Alama. De las 29 "casas de los hombres" destruidas, 17 fueron en Bela y 12 en Alama. El ejército también destruyó una casa tradicional, dos clínicas de salud (puskemas) y una radio SSB (de una sola onda).



Paises tratadas en ésta publicación: China

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588

ASIA ORIENTAL

CHINA

Panorama general

1997 fue un año de grandes sucesos para China. Los dos más importantes fueron, por supuesto, la muerte de Deng Xiaoping en febrero y el retorno de Hong Kong a China el 1 de julio. Estos dos sucesos, cada uno a su manera, influyeron en la relación entre la mayoria china han y las nacionalidades no-chinas.

La muerte de Deng trajo una época de bombardeos terroristas en la capital china. El 25 de febrero, el día de los ritos funerales de Deng en Pequin, explotaron bombas con diferencia de minutos en tres transportes colectivos en Ürünqi, la capital de la Región Autónoma Uighur de Xinjiang. De acuerdo con nuevos despachos, el ataque mató a nueve personas e hirió a 74. Luego, el 7 de marzo, explotó una bomba en un ómnibus en el distrito comercial de Xidan, en Pequin, durante las horas de mayor actividad. Fuentes no oficiales dicen que al menos dos personas resultaron muertas y unas 30 heridas. Los *uighur* en exilio en la vecina Kazakhstán se responsabilizaron de ambos ataques, pero también se dirigió la atención a los grupos resistentes de la región de Hotan-Kashgar en el sur de Xinjiang, los cuales tienen buenos contactos con los movimientos islámicos de Afganistán y Pakistán.

Estos sucesos sucedieron poco después de que explotó el mayor artefacto explosivo hasta el momento enfrente de una de las oficinas del gobierno en el centro de Lhasa, temprano en la mañana del 25 de diciembre de 1996. Se dice que nadie resultó herido, pero la explosión causó gran daño material. El gobierno tibetano exilado en Dharamsala se desvinculó de la responsabilidad del hecho, y se especuló que quizá las mismas autoridades chinas implementaron el suceso, pero es más probable de que fuera un ejemplo de nuevas y más militantes formas de resistencia de jóvenes tibetanos, cada vez más impacientes. La fecha del bombardeo no fue probablemente una coincidencia: parece ser una forma bastante especial de marcar el aniversario del nacimiento de Mao Zedong.

El regreso de Hong Kong fue acompañado por una fuerte ola de sentimientos patrióticos entre los chinos han. Por una vez, la propaganda oficial parece haber sido bien recibida por el pueblo, como quien escribe pudo observar directamente. La opinión unánime entre los más ancianos parecía ser que China nunca más debería dejarse llevar por delante por el imperialismo. Sin embargo, el ánimo entre la parte más joven de la población fue más diversificado, desde la decidida alegría y orgullo a la resignación sobre el hecho de que el suceso de Hong Kong probablemente no cambiará su situación de vida, quizá incluso la empeore.

No obstante, visto desde Pequín, el retorno de Hong Kong probablemente condujo también a una más elevada consciencia sobre la vulnerabilidad de las regiones fronterizas chinas. La retórica del PCC ha cambiado marcadamente hacia apelaciones al "patriotismo" (el término "nacionalismo" es todavía considerado un término burgués, pero el término patriotismo presta la misma función). Eso significa que es más probable que antes que aquellos en la vasta frontera que quieran expresar su descontento sobre el dominio chino de sus territorios sean catalogados de "separatistas". Esto es probable que alimente una creciente espiral de descontento, como los sucesos de Xinjiang de 1997 lo ilustran claramente (ver más abajo).

En conexión con el retorno de Hong Kong a China el departamento de propaganda del Comité Central del partido comunista chino anunció, a mediados de junio de 1997, que cien lugares geográficos de toda China habían sido seleccionados para la llamada educación patriótica. El propósito era principalmente, de acuerdo al *People's Daily* del 11 de junio, enseñar a la juventud de China a "mantener en alto el estandarte del patriotismo". (También se seleccionaron cien películas patrióticas y cien libros patrióticos). Como una serie de los lugares de las regiones bajo el dominio han eran sitios históricos (como la supuesta sepultura del Emperador Amarillo, quien es realmente un héroe cultural bastante tardío inspirado en el taoísmo), el único sitio en las importantes regiones étnicas que tiene connotaciones con la historia anterior era el museo de la Región Autónoma Hui de Ningxia. Todos los otros sitios de las regiones étnicas más importantes estan relacionados con la historia del partido comunista o con sucesos del siglo veinte.

Por ejemplo, en Tibet, se podría pensar que el palacio de Potala tendría la misma significación que el palacio Imperial de Pequín y por lo tanto, sería marcado como un ejemplo de las "contribuciones" (un término utilizado usualmente en contextos como este) de los indígenas *tibetanos* al supuesto patrimonio chino, pero Potala no está en la lista. Los sitios seleccionados en el Tibet son en cambio un mausoleo para los mártires revolucionarios y un sitio conmemorativo de la derrota del ejército tibetano por una fuerza expedicionaria indo-británica en 1904. El mensaje del patriotismo chino de hoy está entonces claramente ilustrado: subrayar los sucesos que conciernen a la nación como totalidad y particularmente los sucesos de las regiones chinas han, y soslayar las identidades locales o regionales.

Xinjiang

El peor disturbio étnico de muchos años estalló en la ciudad de Yining (Khulje) en la prefectura de Yili, a unos 70 km de la frontera con Kazakhstán. Como siempre, los informes de tales sucesos son parcialmente contradictorios y varían mucho en términos de afirmación de la dimensión, así que la información abajo mencionada debería considerada sumamente provisoria.

De acuerdo con fuentes chinas, los disturbios comenzaron el 5 de febrero, cuando uighur locales protestaron contra el intento de la policía de arrestar a un joven uighur, Abdul Halil, de 29 años, quien anteriormente había tomado parte en manifestaciones. Pero ya habían habido intentos previos de la policía de cercar a los militantes simpatizantes de una secta musulmana llamada Talips (cf. Taliban en Afganistán), cuyos misioneros habían venido del área de Hotan en el sur de Xinjiang. Los miembros del Talips se niegan a colaborar con el gobierno, y se dice que varios de ellos renunciaron a sus empleos públicos. Algunos se niegan incluso a ir a la mezquita, ya que les disgusta que los imames sean nombrados y pagados por el gobierno. Otras fuentes alegan que 30 jóvenes uighur fueron ejecutados el 31 de enero de 1997 como parte de la campaña llamada "golpear duro", que el gobierno chino inició en 1996 como una medida contra la permanente erosión del orden en China. (Las últimas ejecuciones oficialmente in-

formadas en Xinjiang antes de los disturbios de Yining tuvieron lugar en Ürümqi, el 30 de enero de 1997, cuando fueron ejecutados 16 hombres acusados de actividades terroristas, entre ellos un uighur.).

Otra vez en Yining, después de haber ayunado durante la noche del 4 de febrero, que este año era un día especial en el mes del Ramadán, un grupo de Talips marchó por las calles el 5 de febrero. Se les sumó una multitud, y la policía local fue tomada totalmente por sorpresa. Cuando la policía actuó finalmente, forzó a la manifestación a dirigirse hacia un parque, donde fueron rodeados, golpeados y en algunos casos muertos, según algunas fuentes. Los disturbios se expandieron inmediatamente y el día siguiente irrumpió una fuerte violencia popular, cuando miles de pueblerinos quemaron autos, destrozaron tiendas y mataron a chinos han. Las estimaciones de cuántos murieron varían mucho, de 10 a 300, así como las afirmaciones de cuántos de ellos eran chinos y cuántos eran uighur y otras personas indígenas. Fuentes no oficiales afirman que la cantidad de personas detenidas suma más de mil.

La represalia de las autoridades chinas fue rápida y sin misericordia. Algunos informes dicen que unos cien uighur fueron ejecutados entre el 6 y el 12 de febrero, pero las cifras son imposibles de verificar. Los primeros juicios abiertos comenzaron precisamente antes del festival Kurban, unas siete semanas después del incidente, pero fueron rápidamente cancelados porque los prisioneros mostraron sus manos sin uñas para testimoniar sobre el tratamiento recibido. En el estadio de la ciudad se celebraron una serie de juicios públicos del 24 de abril en adelante. En la primera ronda, 30 prisioneros fueron alineados frente al público. Tres de ellos, quienes eran considerados los instigadores de las manifestaciones, recibieron sentencias de muerte y fueron ejecutados el mismo día. La única mujer entre los treinta, de 21 años de edad, recibió una sentencia de 14 años por haber tomado parte en las manifestaciones del 5 de febrero y por haber expresado que los uighur no deberían seguir la política oficial de control de la natalidad del gobierno.

Es muy difícil estimar cuántos fueron encarcelados y ejecutados, pero la campaña continuó durante todo el verano de 1997. En mayo, se lanzó una campaña de limpieza de cien días. Ya el 13 de abril, Qiao

Shi, el entonces presidente del Congreso Nacional del Pueblo y un hombre con conexiones de toda la vida con los servicios de seguridad interna, hizo una súbita aparición en Ürümqi, donde declaró: "Debemos oponernos firmemente al separatismo nacional y a las fuerzas religiosas extremistas y salvaguardar la dignidad de la ley y de los intereses fundamentales del pueblo de los diversos grupos étnicos". Se informó que ocho uighur fueron ejecutados el 30 de mayo y otros nueve el 22 de julio.

Pero la ira de los uighur no está solamente dirigida contra los chinos han. Una noche a fines de junio, seis personas fueron muertas a puñaladas en diferentes lugares de Yining en una acción bien coordinada, y cuatro de ellos eran policías uighur.

La espiral de violencia y represión está en una escalada permanente en Xinjiang. El 13 de marzo, Mukhiddin Mukhlisi, un vocero del Frente Unido Revolucionario Nacional de Turquestán Oriental anunció en una conferencia de prensa en Almaty, la capital de Kazakhastán, que había explotado una bomba en una fábrica de armas entre Ürümqi y Kashgar el 10 de marzo. El 29 de mayo, ocho personas fueron ejecutadas en Ürümqi, la capital regional, debido a los ataques con bombas mencionados en el "Panorama general" de este artículo.

Parece que la dirección política china considera a Xinjiang como una región mucho más voluble y difícil de controlar que Tibet y Mongolia Interior, donde son capaces de mantener las riendas firmes. Xinjiang ha estado plagada durante mucho tiempo por un conflicto de tipo Irlanda del Norte. Sin embargo, será infinitamente más difícil encontrar un arreglo aceptable para la situación de Xinjiang, a causa de los complejos temas regionales y étnicos involucrados.

Mongolia Interior

Como se mencionó en la edición del año pasado de *El Mundo Indígena*, la *mongol* Hada, de 42 años de edad fue sentenciada a 15 años de prisión en diciembre de 1996. Hada, es nativa y miembro del Estandarte de Derecha Khorchin de Mongolia Interior (el término "estandarte" se refiere a una organización tradicional sociopolítica mongol, pero hoy es usado para denotar entidades administrativas a nivel mu-

nicipal). Hada había sido miembro de una organización mongol clandestina cuyo objetivo era preservar el patrimonio religioso y cultural de los mongoles. La significación de Mongolia Interior tiene orígenes históricos mucho más tempranos que en el caso de Tíbet e incluso Xinjiang. Hoy en día, los mongoles conforman sólo una pequeña minoría de la población de la Región Autónoma de Mongolia Interior, y muchos jóvenes mongoles urbanos ya no hablan la lengua mongol, sino el chino.

En mayo de 1992, Hada y otros fundaron la Alianza Democrática de Mongolia del Sur (SMDA), de la cual ella era presidente. Hacia fines de 1995, la SMDA organizó una serie de manifestaciones en Hohhot, exigiendo derechos que están garantizados por la Constitución china, pero que no han sido cumplidos. En diciembre de 1995, Hada fue arrestada, su librería, la Librería Académica Mongólica fue clausurada y su inventario fue confiscado.

En diciembre de 1996 también fue sentenciado Tegexi, un mongol de 30 años del Estandarte de la Izquierda Posterior Khorchin, quien fue condenado a diez años de cárcel, supuestamente por tratar de dividir al país. Tegexi había estado empleado antes en el Buró de Relaciones Exteriores de Mongolia Interior.

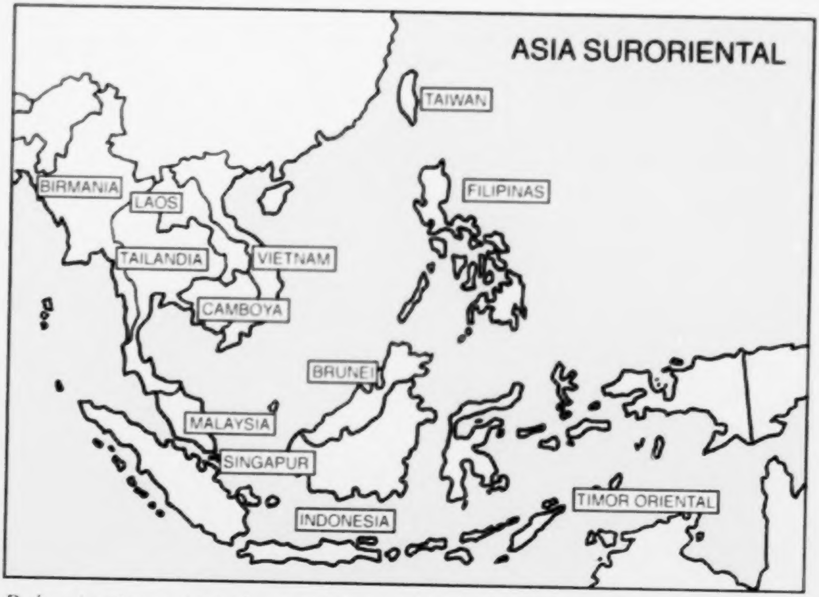
Tanto Tegexi como Hada fueron mantenidos en confinamiento aislado durante un año después de su arresto. Otros ocho que fueron también detenidos en diciembre de 1995 y acusados de "actividades nacionalistas separatistas", fueron liberados subsiguientemente. Tanto Hada como Tegexi apelaron sus sentencias, pero las apelaciones fueron rechazadas el 24 de enero de 1997, y sus sentencias fueron mantenidas. Amnistía Internacional considera a Hada y Tegexi como prisioneros de conciencia.

Varios historiadores occidentales de renombre y científicos sociales están dedicados al estudio de la historia reciente de Mongolia Interior. Especialmente el caso del período de la Revolución Cultural, cuando los mongoles sufrieron quizá más que cualquier otro pueblo minoritario de China.

Observaciones finales

El creciente interés por los derechos indígenas fue ilustrado por la conferencia anual de la Asociación de Estudios Asiáticos en Washington D.C., en abril de 1998. El presidente de AAS, Jim Scott, organizó una Mesa Redonda Presidencial titulada simplemente "Derechos Indígenas". Los participantes de la mesa redonda fueron Uradyn Bulag, Dru Gladney, Richard Kagan, La Raw Maran, y Lobsang Sangay. Ver http://www.aasianst.org/98Hghlts.htm

Cuando se mencionan direcciones web, podemos notar que la cantidad de información disponible en la red relativa a los grupos indígenas más importantes de China está creciendo rápidamente. Cualquiera que conduzca una búsqueda basada en términos com "Xinjiang", "Turquestán Oriental", "Mongolia Interior" o "Mongolia del Sur" se dará cuenta enseguida de esto. El último término es -comprensiblemente- el preferido por los mongoles disidentes. Sin embargo, como todos han experimentado, la información de internet es de una calidad muy despareja, y se debe aplicar la misma cautela cuando se considere la información sobre estos temas vitales.



Países/regiones tratadas en ésta publicación: Filipinas, Timor Oriental, Indonesia, Malaysia, Tailandia, Camboya, Laos, Nagaland

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ASIA SURORIENTAL

FILIPINAS

Se aprobó la Ley de los Derechos de los Pueblos Indígenas

Después de más de una década de cabildeos legislativos, el gobierno de las Filipinas promulgó finalmente una legislación que se adecúa a los intereses de los pueblos indígenas y trata de encararlos con la Ley de la República (RA) 8.371, conocida también como la Ley de los Derechos de los Pueblos Indígenas (IPRA) de 1997. El Presidente Fidel Ramos incorporó a su gobierno un programa de alivio de la pobreza dentro de la Agenda de Reforma Social. Está será por lejos la ley que tratará principalmente los intereses y demandas de los pueblos indígenas. Sin embargo, tanto las diversas organizaciones indígenas como los defensores están bien concientes de sus limitaciones y peligros, así como que existen oportunidades y potenciales dentro del contexto del presente medio político y económico. El progreso de esta ley de aquí en adelante será el indicativo de sus fuerzas y debilidades, como también los continuados esfuerzos de los pueblos indígenas hacia una genuina autodeterminación.

La base constitucional

RA 8.3271, o la Ley de los Derechos de los Pueblos Indígenas fue firmada el 29 de octubre de 1997 y entró en vigencia un mes más tarde, el 22 de noviembre de 1997. La ley es la interpretación de la legislatura de las previsiones constitucionales que gobiernan los derechos de los pueblos indígenas. La IPRA de 1997 implementa estas previsiones enumerando los derechos civiles y políticos de los pueblos indígenas, así como también sus derechos sociales y culturales y reconociendo los derechos de propiedad indígenas. Prevé la creación de la oficina de la Comisión Nacional sobre Pueblos Indígenas (NCIP) como agencia implementadora.

597

Los derechos de los pueblos indígenas tal como se definen en la Ley

Las previsiones sobre *derechos civiles y políticos* se encuentran en los Capítulos 4: Derecho a la Autogestión y Autoridad, y Capítulo 5: Justicia Social y Derechos Humanos, de la ley.

El Capítulo 4, secciones 13 a 20 prevé el derecho de los pueblos indígenas a la autogestión, la autodeterminación y la autoridad. Esto incluye el derecho de los pueblos indígenas a usar sus sistemas jurídicos e instituciones para la resolución de conflictos, procesos constructores de la paz, y otras leyes y prácticas consuetudinarias que sean compatibles con el sistema legal nacional y los derechos humanos reconocidos internacionalmente. El derecho a participar en las tomas de decisiones a todos los niveles es especificado en la Sección 16.

Lo que puede ser más importante en la IPRA de 1997 se encuentra en el Capítulo 5, Sección 21, donde se prevé la igualdad de protección y la no-discriminación de las comunidades culturales indígenas o de los pueblos indígenas. La igualdad de oportunidades se especifica en las áreas del empleo y el suministro de los servicios básicos. Esto va aún más allá al reconocer los derechos de las mujeres indígenas. Las Secciones 27 y 28 reconocen los derechos de los niños y los jóvenes y requieren que el sistema educativo sea relevante para las necesidades de los niños y los jóvenes.

Los derechos sociales y culturales son enumerados en el Capítulo 6: Integridad Cultural. Aquí, la ley define la política estatal sobre la cultura indígena. Establece en la Sección 29: "El Estado respetará, reconocerá y protegerá el derecho de las CCIs/PIs a preservar y proteger su cultura, tradiciones e instituciones. Considerará estos derechos en la formulación y aplicación de planes y políticas nacionales".

En este capítulo está incluido lo siguiente: reconocimiento de la diversidad cultural, igual acceso a las oportunidades culturales en la educación; los derechos intelectuales comunitarios, los derechos a la religión, los sitios culturales y ceremonias que también especifican el derecho a repatriar restos humanos; el derecho a los sistemas y prácticas de conocimiento indígena y a desarrollar sus propias ciencias y tecnologías; la protección del derecho a sus recursos biológicos y ge-

néticos; el derecho a un desarrollo agro-tecnológico sustentable; y, la protección y preservación de sitios arqueológicos e históricos dentro de los dominios ancestrales que también otorga el derecho a recibir del gobierno nacional todos los fondos destinados para este propósito.

Derechos de propiedad: La IPRA pone énfasis en la naturaleza comunal del derecho de propiedad. El Capítulo 3 de la ley describe este concepto indígena de derecho. Aquí se indican los derechos a la tenencia de dominios y tierras ancestrales (dos categorías separadas).

El derecho a los dominios ancestrales es definido como una forma de propiedad. Así, los detentadores de dominios ancestrales pueden demandar la propiedad de los recursos dentro del territorio, explotar la tierra y los recursos naturales, permanecer en el territorio, tienen derechos contra el desplazamiento involuntario y en caso de desplazamiento, el derecho a retornar al mismo territorio, pueden regular la entrada de inmigrantes, tienen derechos a aire y agua sanos y limpios, derecho a exigir partes de reservas excepto aquellas reservadas para el bienestar y servicio común y público, y usar el derecho consuetudinario para resolver sus conflictos.

El derecho a las tierras ancestrales, por otro lado, incluye la redención de los derechos a la tierra/propiedad adquiridos por individuos no-indígenas a través de un consentimiento viciado o a un precio irrazonable dentro de un período que no exceda los 15 años a partir de la fecha de la transferencia, y el derecho a transferir la propiedad a/entre los miembros de la misma comunidad indígena.

Otra forma de derecho de propiedad es el reconocimiento de las tierras ancestrales que han sido detentadas durante no menos de treinta años previos a la vigencia de la RA 8.371. Esto expande la definición de tierras ancestrales que no es sólo la detentada desde tiempos inmemoriales. Dada esta situación, la ley prevé la opción de que los pueblos indígenas obtengan un Certificado de Título según la Ley de la Mancomunidad N° 141, o la Ley de Registros de Tierras 496. Esta previsión incluye áreas con una pendiente de 18% o más como enajenables y disponibles. La aplicabilidad de esta opción es otorgada sólo dentro de los veinte (20) años después de la aprobación de la ley. Además, sólo se aceptan solicitudes individuales. Esta es una forma

de propiedad de tierras ancestrales que difiere de los derechos tradicionales grupales o comunales.

El Capítulo 8 de la ley indica los procedimientos para la delineación y reconocimiento de dominios y tierras ancestrales. Los procedimientos son idénticos a los previstos por la Orden Administrativa DENR Nº 2, Serie de 1992. A través de su agencia implementadora, la Comisión Nacional sobre Pueblos Indígenas, la ley prevé la emisión de certificados de títulos de dominio ancestral, o CADT y certificados de títulos de tierras ancestrales, o CALT. Los certificados de reivindicación de dominio ancestral, o CADC, previos a la promulgación de la IPRA pueden ser convertidos en CADT sin pasar por el proceso previsto por tal ley.

Sin embargo, las secciones 56, 57, y 58, son previsiones que necesitan ser mejor calificadas. La Sección 56 somete a los derechos de propiedad indígena a otros derechos existentes. Trataremos esto en detalle más adelante. La sección 57 reconoce el derecho de los pueblos indígenas a la propiedad y a la explotación de los recursos naturales sólo como *derechos prioritarios*. Esto da paso a la inclusión del derecho de personas no-indígenas a reivindicar el derecho al uso, explotación o desarrollo de los recursos hasta cincuenta (50) años. La sección 58 prevé consideraciones ambientalistas y permite el uso de dominios ancestrales como vertientes críticas, manglares, santuarios de la fauna, de la flora, áreas protegidas y cobertura forestal, cuando sean juzgados apropiados con la "plena participación de los CCIs/PIs". Un término diferente hubiera sido más aceptable para los defensores de los derechos de los pueblos indígenas, es decir, el "libre e informado consentimiento" de los pueblos indígenas.

NCIP - El brazo implementador

La Comisión Nacional sobre Pueblos Indígenas, o NCIP, es creada como la agencia implementadora de la IPRA. Debe ser una oficina independiente bajo la oficina de la Presidencia y compuesta de siete Comisionados que representan siete áreas etnográficas identificadas (tres regiones en Luzon, tres regiones en Mindanao, y los grupos isleños que incluyen a Palawan, Mindoro, Romblon, Panay y las Visa-

yas). Prevé, además, que al menos dos de los siete Comisionados serán mujeres. No es claro si esta cláusula es concebida para contrarrestar la tendencia a que se nombre a los líderes masculinos o ancianos. También, al menos dos de los Comisionados son miembros del Colegio de Abogados.

La NCIP tiene poderes cuasi-judiciales. Incluye el poder y la autoridad de promulgar reglas y reglamentos que gobiernen las audiencias y la disposición de casos presentados a la misma; para administrar prestaciones de juramento, emplazar a las partes de una controversia, emitir citaciones; detener a cualquier persona en desacato e imponer las penalidades apropiadas; e imponer cualquiera y todos los actos que impliquen o surjan de cualquier caso pendiente ante la misma.

La NCIP está autorizada a emitir certificados de dominios ancestrales y títulos de tierras ancestrales. Entretanto, sus predecesores, la Oficina para las Comunidades Culturales del Norte (ONCC) y la Oficina de las Comunidades culturales del Sur (OSCC) tienen seis meses a partir de la vigencia de la ley para ser totalmente abolidas. Cinco de los siete Comisionados han sido nombrados para esta redacción, entre ellos personas sumamente cuestionables como Mai Tuan, como representante de Mindanao del sur y del oeste. Él es el ex Alcalde de Lake Sebu, un conocido simpatizante de Marcos, y estrechamente identificado con la controversia de Panamin de Manda Elizalde y los *tasaday*.

Inconsistencias de la IPRA

Es crucial para la comprensión de los derechos de los pueblos indígenas la definición de términos y los conceptos que implican. La Sección 3 de la ley prevé la definición de términos. Sin embargo, no todo está bien con las definiciones cuando la raíz del conflicto se remonta a la previsión constitucional sobre el dominio público, un marco que ha sido adoptado de la doctrina Regaliana. Las Secciones 2 y 3, Artículo XII (Economía y Patrimonio Nacional) prevén que todas las tierras de dominio público y otros recursos naturales son de propiedad del estado y son inalienables con la excepción de las tierras agrícolas. Además, la ley no establece en ningún lado el derecho de los pueblos indígenas a negar al estado que use y explote los dominios ancestrales y las tie-

rras ancestrales por el poder del dominio eminente. En la Sección 7, párrafo C, la IPRA indica, "ningún CCIs/PIs será reasentado sin su libre, previo e informado consentimiento, ni por ningún medio que no se el dominio eminente".

Mientras que se puede decir que la Ley sobre los Derechos de los Pueblos Indígenas incluyen los dominios ancestrales y las tierras ancestrales como medios legítimos para adquirir la propiedad, y que suplementa los derechos privados investidos reconocidos en la Constitución a través de la Doctrina Carino, y los derechos previstos por la sección 48 de la Ley de Tierras Públicas, todos estos derechos son derogados por la Sección 56 de la ley. Esta sección prevé: *"Los derechos de propiedad dentro de los dominios ancestrales ya existentes y/o investidos en el momento de la vigencia de esta ley, serán reconocidos y respetados"*.

Esta sección restringe la definición de dominios y tierras ancestrales. Esto significa que "todos los derechos inherentes a los títulos privados y diversos casos de arrendamientos de tierra, contratos y permiso otorgados a los grandes especuladores mineros, madereros, ganaderos, etc. son automáticamente mantenidos" (Belisario, 1998).

La IPRA es considerada demasiado general para encarar la diversidad de las comunidades indígenas y, por lo tanto, juzgada inadecuada para enfrentar problemas locales (Leonen, 1988). Esto también se aplica al tratamiento con las poblaciones indígenas, como en el caso de las comunidades de la Cordillera que están asentadas y viven juntas en un territorio común. Un crítico dice que el enfoque de la IPRA tuvo como resultado la decidida exclusión de comunidades densamente pobladas y que son una mezcla de pueblos y, por lo tanto, redujo el concepto del dominio ancestral al de los territorios específicos de comunidades indígenas específicas (Belisario, 1998).

La división conceptual, es decir, lo público y lo privado que opera esencialmente en la IPRA, es la que representa los peligros de esta ley. La privatización de tierras comunales se convierte ahora en un concepto legal - una nueva definición de lo que es una tierra ancestral. Los certificados de dominios ancestrales y de títulos de tierras ancestrales pueden ofrecer un enfoque pragmático para la protección del

¿Protegerá la nueva Ley de Derechos de los Pueblos Indígenas su derecho a su tierra ancestral? Familia buhid en su campo, isla de Mindoro, Filipinas (Foto: Christian Erni).

territorio de una comunidad. Por otro lado, la IPRA, no garantiza la inmunidad de los dominios ancestrales o tierras ancestrales de los pueblos indígenas para que no sean usados o explotados por otros intereses, ya sean estatales o de grupos empresariales. El "libre e informado consentimiento" de un individuo, una familia o un clan es todo lo que hace falta para que los pueblos indígenas pierdan el poder sobre sus territorios.

Mientras que el uso de la ley en muchas situaciones es marginado para los pueblos indígenas, y mientras que la ley, *per se*, es considerada una definición transitoria de los intereses de la sociedad articulados a través de estructuras imperfectas y dominadas por el hombre, la IPRA también brinda una condición para el cambio (Leonen, 1998). Esto sigue siendo un desafío para los pueblos indígenas y sus defensores quienes tendrán que saber cómo usar la ley para lograr posibilidades de efectuar un cambio justo y fundamental en el contexto social dado.

Otra arena, otra batalla

El temor general con respecto a la NCIP que ahora está formulado, parece ser que sea otra estructura que simplemente reemplazó a la ONCC y la OSCC. El principio que sostienen los defensores de los pueblos indígenas es que deberían existir más esfuerzos para fortalecer y dar genuina autoridad a las comunidades indígenas, y que la NCIP debería, por lo tanto, ser una estructura que sirva como un mecanismo de soporte, en vez de lo opuesto.

Por cierto, la dinámica de la cultura de los pueblos indígenas, sus demandas y necesidades, como es de esperar, no pueden ser completamente o efectivamente solucionadas por una ley que conlleva conceptos y prácticas que a veces les son ajenas. Establecer condiciones que limiten el derecho de los pueblos indígenas al dominio y tierras ancestrales; reduce el verdadero significado de la identidad cultural, la integridad y la supervivencia.

Las palabras de Datu Vic Saway, un *taalandig* y director de PANAGTAGBO (una alianza de pueblos lumad de Mindanao), recientemente nombrado Comisionado de la NCIP, expresan bien tanto las esperanzas como los temores asociados con la IPRA: "No resolverá los problemas de los pueblos indígenas. Pero es otra arena en donde se puede seguir luchando la batalla".

Fuentes

Marvic M.V.F. Leonen, "Human Rights and Indigenous Peoples: An Overview of Recent Developments in Policy and Some Tentative Proposals for an Action Program", febrero de 1998.

Art Belisario, en "Talk Politics on the Critique of IPRA", 1998.

Ley de Autonomía Regional rechazada por los pueblos indígenas de la Cordillera

La R.A.8438, conocida también como la Ley para Crear una Región Autónoma de la Cordillera, fue presentada a los pueblos de la Cordillera, Filipinas, para su aprobación en un plebiscito celebrado el pasado 7 de marzo de 1998. Este es el segundo intento del gobierno de las Filipinas para promulgar una ley para la creación de una región autónoma después de que la Constitución reconoció tal derecho a los pueblos de la Cordillera. Los pueblos indígenas de la Cordillera lucharon arduamente por tal previsión Constitucional.

En 1990, el gobierno de Aquino presentó a plebiscito a la R.A.6766, pero fue abrumadoramente rechazada por el pueblo debido a muchos factores, entre los cuales estaba un alto nivel de informaciones erróneas sobre el concepto de autonomía. Después de ocho años, el gobierno de Ramos, a causa de las exhortaciones de los políticos tradicionales, decidió revisar el tema y creó la R.A.8438.

Esta ley no era una mejora de la R.A.6766, en realidad para muchos era incluso peor. La R.A.8438 fue concebida claramente para acomodarse a los intereses de ciertos políticos de la región que estaban constitucionalmente impedidos de presentarse para la reelección a sus puestos respectivos. Había una necesidad de crear nuevos puestos gubernamentales para acomodar a estos políticos. Se suponía que esta sería una región autónoma, en la cual podrían ser o el gobernador regional o uno de los legisladores regionales. Aparte de esta obvia parcialidad, la R.A.8438 ni siquiera reconocía los derechos territoriales ancestrales de los pueblos indígenas - una de las bases para reclamar la autonomía regional. Además, la ley era tan gravemente errónea que un grupo de abogados, orientados a favor de la causa, presentó incluso una demanda judicial a la Suprema Corte cuestionando su legalidad.

Para el movimiento de los pueblos indígenas de la Cordillera, encabezado por la Alianza de los Pueblos de la Cordillera, era claro que la R.A.8438 tenía que ser rechazada. Se la consideró otro ardid político para subvertir y cooptar las luchas de los pueblos. También se la

consideró como un esfuerzo para facilitar la extracción de los recursos de la región tal como se ve en sus previsiones relativas a los recursos naturales.

Meses antes del 7 de marzo, el gobierno se dedicó afanosamente a hacer campañas por un voto por el "SÍ" usando el tema de los "FONDOS" como la principal razón para aceptar la ley orgánica. Se prometieron millones de pesos para la región, los funcionarios locales fueron advertidos de que si llegara a prevalecer un voto por el "NO" en sus áreas, no se les adjudicaría absolutamente nada en términos de proyectos. En la así llamada "campaña de información" manejada por el gobierno, no fueron considerados los errores de la ley y en cambio se usó el tema de más fondos como argumento para votar el "SÍ". Mientras tanto, el caso presentado ante la Suprema Corte no se movió para nada.

Finalmente, el pasado 7 de marzo, una gran cantidad (67%) de votantes acudió a las urnas y al final del conteo el 35% votó por el "SÍ" mientras que el restante 65% votó por el "NO". La R.A.8438 fue resonantemente rechazada. El rechazo de esta ley por los pueblos de la Cordillera no fue un rechazo de la idea o de la causa de la autonomía, en realidad fue una reafirmación de que el pueblo quiere una genuina autonomía y no una farsa de autonomía vendida por el gobierno. Había un nivel mayor de comprensión sobre los temas en juego, el pueblo votó "NO" porque rechazó a los políticos que hicieron una campaña activa en favor de la ley. El pueblo también rechazó la idea de que podían ser comprados por promesas de dinero. Fue también un rechazo de las políticas y programas gubernamentales.

Los pueblos de la Cordillera todavía están muy en favor de una autonomía regional, pero esta tiene que ser elaborada a nivel comunitario y no legislada desde arriba. En las consultas posteriores al plebiscito, las organizaciones populares afirmaron que continúa la lucha por una autonomía genuina.

TIMOR ORIENTAL

Timor Oriental fue invadido por su vecino Indonesia el 7 de diciembre de 1975. A partir de entonces, al menos 200.000 personas -casi un tercio de la población- han muerto como resultado de la guerra, del

608

hambre y de las enfermedades. Pero la anexión de Indonesia de la ex colonia portuguesa nunca ha sido reconocida *de jure* por la comunidad internacional.

Esta anexión viola 12 resoluciones de las Naciones Unidas: dos del Concejo de Seguridad, ocho de la Asamblea General y dos de la Comisión de Derechos Humanos en Ginebra. La ONU todavía considera a Portugal como la autoridad administrante del territorio. En junio de 1995, el Tribunal Internacional de Justicia de la Haya (conocido como el Tribunal Mundial) confirmó que el pueblo de Timor Oriental todavía tiene el derecho a la autodeterminación de acuerdo con el derecho internacional y la Carta de la ONU.

En julio de 1997, el Presidente sudafricano Nelson Mandela viajó a la capital de Indonesia, Yakarta, donde se reunió con el Presidente Suharto. Mandela también se reunió con Xanana Gusmao, el comandante del movimiento de resistencia de Timor Oriental, quien está cumpliendo una sentencia de 20 años en la Prisión Cipinang, en Yakarta, a unos 2.000 kilómetros de su patria, y quien ha sido descrito como el "Nelson Mandela de Asia".

A continuación de su visita a Indonesia, el presidente sudafricano hizo un llamado por la liberación de Xanana, expresando que era esencial para resolver el conflicto, y ofreció auspiciar conversaciones de paz entre Indonesia y Timor Oriental. El gobierno Indonesio declinó amablemente ambas ofertas, y así otro esfuerzo diplomático no logró trascender.

Timor Oriental es frecuentemente descrita como una causa perdida. Muchos pragmáticos y realistas aconsejan al pueblo de Timor Oriental a que abandonen la causa: Indonesia está allí, el argumento funciona, y va a seguir estando allí. Es un *fait accompli*. Otros observadores, entre ellos muchos *timoreses orientales*, asumen un enfoque diferente y más honesto: si la historia nos enseña algo, dicen, es que ningún estado y ninguna frontera duran eternamente.

A veces, cuando las circunstancias internacionales cambian, se hace posible cumplir los sueños y esperanzas que durante largo tiempo fueron considerados fútiles. El régimen del "Nuevo Orden" de Suharto fue debilitado por una seria crisis política en julio de 1996 y por una dramática crisis económica que comenzó a mediados de 1997. Suhar-

to fue forzado a renunciar en mayo de 1998. Podría ser que un futuro gobierno democrático en Indonesia reconociera el derecho de Timor Oriental a la autodeterminación y la independencia.

Diversos paralelos

Si echamos una mirada a la historia reciente, encontramos varios paralelos al caso de Timor Oriental. Algunos de ellos dan lugar al optimismo, mientras que otros envían un mensaje más complejo:

- Chipre, durante muchos años una colonia británica, logró su independencia en 1960. En julio de 1974 fue invadida por Turquía, la cual todavía ocupa la parte septentrional de la isla. En teoría, Chipre goza de la protección de tres miembros de la OTAN, Grecia, Turquía y el Reino Unido, de los cuales el último tiene todavía dos bases militares en la parte meridional de la isla. Desde agosto de 1974 no hay guerra en Chipre. La línea verde que divide a los greco-chipriotas de los turco-chipriotas está vigilada por tropas de mantenimiento de la paz de la ONU, pero todavía no hay ninguna solución a la vista.
- El Sahara Occidental, durante muchos años una colonia española, fue invadido en noviembre de 1975 por Marruecos por el norte y por Mauritania por el sur. Un movimiento de resistencia, el Frente Polisario, ha estado luchando por la libertad desde mayo de 1973. Mauritania se retiró, pero ahora Marruecos exige simplemente la totalidad del territorio. En 1991, el Consejo de Seguridad de la ONU endosó un acuerdo de paz que incluía una tregua y un referéndum. Pero seis años después, todavía no ha habido ningún referéndum a causa de obstrucciones burocráticas por parte del lado marroquí.
- Namibia, durante muchos años una colonia alemana, fue invadida en 1915 por Sudáfrica. En 1988, Angola, Cuba, Sudáfrica y los Estados Unidos firmaron un acuerdo que incluía la retirada de las tropas cubanas y sudafricanas de Angola. En noviembre de 1989 se celebraron las primeras elecciones libres en Namibia. El territorio obtuvo su independencia el 21 de marzo de 1990, y el movi-

608

miento de liberación, SWAPO, que había estado luchando por la libertad durante muchos años formó el primer gobierno de la nueva Namibia.

- Eritrea, una colonia italiana durante muchos años, fue forzada por la ONU en 1952 a integrar una federación con Etiopía. Diez años después, Etiopía anexó el territorio. Para ese entonces un movimiento de liberación eritreano ya había comenzado la lucha por la libertad. La guerra duró 30 años. Finalizó en 1991 cuando el gobierno de Addis Abeba se derrumbó. El nuevo gobierno etíope reconoció el derecho de Eritrea a la autodeterminación, y la independencia fue confirmada en un referéndum celebrado en abril de 1993.
- Los países bálticos (Estonia, Letonia y Lituania), durante muchos años parte del imperio ruso bajo la égida del Zar, lograron la independencia durante un breve período entre la primera y la segunda guerra mundial. Pero al final de la segunda guerra mundial, se convirtieron en parte de la Unión Soviética. Cuando cayó el Muro de Berlín y el imperio soviético se derrumbó, los países bálticos proclamaron otra vez su independencia. La URSS fue formalmente disuelta el 31 de diciembre de 1991, y el día siguiente las antiguas repúblicas soviéticas fueron transformadas en 15 estados independientes.

Violaciones de derechos humanos

La reunión del presidente Mandela con Xanana en julio de 1997 y su consiguiente oferta de oficiar de anfitrión de conversaciones de paz entre Indonesia y Timor Oriental fue un evento significativo en el frente diplomático, pero no condujo a ningún resultado inmediato o cambio de la situación. El conflicto estaba tan trabado como siempre. Y las violaciones de derechos humanos continuaron durante todo 1997.

De acuerdo con algunos observadores independientes, la situación estaba inclusive empeorando. En agosto de 1997, el Centro por los Derechos Humanos de Timor Oriental en Melbourne, Australia, emitió un informe centrado en el período de enero a julio de 1997, titulado *Los Derechos Humanos se deterioran en Timor Oriental*. El mes si-

guiente, Human Rights Watch/Asia, con sede en Nueva York, emitió un informe centrado en el período de mayo a julio de 1997 titulado *Derechos Humanos en deterioro en Timor Oriental*. Ambas organizaciones sostenían sus alegatos con una abundante información basada en muchas fuentes diferentes.

En su informe de agosto de 1997, el Centro de Derechos Humano de Timor Oriental Declaro que:

> 1997 ha sido caracterizado por una guerra de guerrillas demoledora y una continuación del fuerte movimiento urbano de resistencia y el nacionalismo de Timor Oriental, dirigido contra lo que los timoreses orientales perciben como el colonialismo indonesio. Durante el período electoral, hubo un notable aumento de las actividades de las guerrillas armadas de Timor Oriental (Falintil), las cuales lanzaron una serie de serios ataques contra objetivos militares y policiales indonesios. La población civil sufrió las repercusiones cuando el ejército indonesio respondió lanzando una intensa operación militar en todo Timor Oriental. De acuerdo con fuentes de ETHRC, la operación es llamada *Operasi Gerakan Tuntas* (Operación Exterminación) y está dirigida contra timoreses orientales que están supuestamente comprometidos en el Frente Clandestino o la Resistencia armada de Timor Oriental. La operación ha resultado hasta el momento en cientos de arrestos arbitrarios, y al menos cuarenta personas han muerto.

En su informe de septiembre de 1997, Human Rights Watch/Asia destacaba que:

> Los meses de mayo, junio y julio de 1997 parecieron marcar una intensificación del conflicto en Timor Oriental, con ataques guerrilleros a objetivos militares y civiles en Dili, Baucau, Ermera, y Los Palos, e intensas operaciones del ejército indonesio para encontrar y castigar a los responsables. El momento de los ataques estaba vinculado con las elecciones nacionales del 29 de mayo en Indonesia en la cual el Ministro de Relaciones Exteriores, Ali Alatas, se presentó como representante de Timor Oriental en la lista del partido gobernante, GOLKAR. Tanto Alatas y el Ministro de Transmigración, Siswono Yudohusodo, realizaron visitas sumamente publicitadas a Timor Oriental a mediados de mayo, como parte de su campaña, y Alatas fue desafiado por estudiantes de la Universidad de

610

Timor Oriental a causa del rechazo de Indonesia a celebrar un referéndum sobre el territorio, expresando que la presencia de Siswono servía para subrayar el tema sumamente sensible de cómo la migración patrocinada por el gobierno está cambiando la demografía de Timor Oriental

El resultado de la elección nunca estuvo en duda -GOLKAR ganó en Timor Oriental por más del 80 por ciento de los votos, a diferencia de su victoria del 74 por ciento en toda Indonesia- pero las guerrillas tuvieron como objetivos a lugares de votación, funcionarios electorales, y, en algunos casos, votantes para destacar su rechazo al régimen indonesio. Unas 30 personas murieron en los ataques, incluyendo al menos a diez civiles, cuyas muertes Human Rigths Watch condenó como una clara violación del derecho humanitario internacional.

La muerte de David Alex

Ambos informes mencionaron el caso del comandante guerrillero David Alex, quien murió en junio de 1997. El comandante guerrillero fue capturado el 25 de junio con otros cinco hombres en una aldea cercana a Caucau por las fuerzas armadas indonesias. De acuerdo con fuentes indonesias, David Alex murió más tarde ese mismo día como resultado de heridas de bala recibidas durante un enfrentamiento armado con las tropas indonesias en el momento de su arresto.

La oposición de Timor Oriental y muchos grupos de solidaridad de todo el mundo sospechan que Alex fue asesinado por las fuerzas de seguridad indonesia en su lecho en el hospital de Dili. Los indonesios negaron esto, pero hasta el momento no ha existido ninguna investigación independiente sobre las circunstancias de su muerte y es dudoso que las autoridades indonesias permitan una autopsia.

El entierro de David Alex dio origen a otra polémica. Los indonesios dijeron que fue enterrado en Dili el 26 de junio en una ceremonia a la cual asistieron familiares y en la cual ofició un sacerdote católico. Pero no se pudo conseguir al cuerpo para una autopsia antes del funeral, y la familia negó haber asistido.

Más tarde se informó que la familia estaba ahora satisfecha de que David Alex en realidad estuviera muerto, pero su familia puede haber sido presionada para aceptar la versión del ejército de los aconteci-

mientos en vez de exigir que las autoridades exhumen el cuerpo con el objetivo de identificarlo y realizar una autopsia.

La manifestación del Hotel Mahkota

La organización de derechos humanos con sede en Londres, Amnistía Internacional, sigue muy de cerca los acontecimientos de Timor Oriental y publica una gran cantidad de documentos sobre este conflicto. Uno de los casos destacables es la manifestación del Hotel Mahkota.

En la mañana del 23 de marzo de 1997, unos 200 timoreses orientales, principalmente jóvenes, se reunieron fuera del Hotel Mahkota en la capital Dili, donde el diplomático pakistaní Jamsheed Marker se albergaba. Había sido recientemente nombrado como Representante Personal del Secretario General de la ONU, Kofi Annan. Fue una manifestación pacífica. Los timoreses querían nada más que entregar algunos documentos sobre la vida en Timor Oriental al funcionario de la ONU. La policía monitoreó el suceso, pero al principio no tomó ninguna acción. Después de un rato, los manifestantes se trasladaron a la recepción del hotel. No se reunieron con el Sr. Marker, pero entregaron su material a un miembro de su personal. Entonces la policía y tropas militares intervinieron brutalmente, bloqueando al mismo tiempo la salida a la calle.

Las fuerzas de seguridad hicieron disparos intimidatorios al aire y dispararon balas de goma contra los manifestantes. Algunos lograron escapar, pero muchos fueron arrestados después de lo cual fueron acusados con serios cargos por tomar parte en la pacífica manifestación. En un informe, publicado en junio de 1997, apenas antes de que comenzara el juicio, Amnistía Internacional describió como:

> Un total de 17 personas están acusadas bajo los Artículos de "Incitación al odio". Tres personas Marito Brafas Soares, Cancio A. Henrique Guterres y Alberto da Costa (alias Bareto), serán juzgados por el Artículo 154 del Código Penal, el cual castiga la "expresión pública de sentimientos de hostilidad, odio o desprecio hacia el gobierno" con hasta siete años de prisión. Otras 14 personas se enfrentan a una acusación primaria bajo el Artículo 154 y una acusación subsidiaria bajo el Artículo 155, el cual prohíbe la expresión de sentimientos de hostilidad, odio o desprecio hacia

el gobierno a través de los medios de difusión, con una penalidad máxima de cuatro años y medio de prisión...

Otras dieciséis personas se enfrentan a acusaciones de agresión bajo el Artículo 354 del Código Penal de Indonesia ... Al menos cuatro de las personas que están ahora esperando juicio, incluyendo a dos mujeres y un hombre que son acusados de agresión, se encontraban entre los 11 llevados al hospital para su tratamiento después de haber sido heridos por la policía. Se cree que las dos mujeres que fueron heridas, Olga Amaral y Celina Pires da Costa, fueron golpeadas.

Amnistía Internacional destacó que hasta la Comisión de Derechos Humanos de Indonesia (*Komisi Nasional Hak Azasi Manusia* o *Kommas HAM*) criticó a las fuerzas de seguridad por su proceder en la manifestación de Mahkota. Clementino Dos Reis Amaral, un miembro de *Kommas HAM*, fue citado por decir "la policía atacó a los manifestantes con palos y también los patearon y los golpearon con los puños". *Kommas HAM* alegó que las 24 personas detenidas en la Prisión de Becora habían recibido todas heridas que "sugieren que fueron golpeadas". Confirmando que un total de 37 protestantes habían sido golpeados, Clementino Amaral dijo que "tenían ojos, bocas, espaldas y pechos inflamados. Algunos no habían comido durante 4 días porque no lo pueden hacer a causa de los golpes". Otro miembro de *Kommas HAM*, Albert Hasibuan, fue citado por decir que: "los implementadores de la ley en Timor Oriental deberían poner la ley por sobre todas las cosas cuando tratan cualquier asunto; la ley no ha sido implementada como el pueblo espera".

El hecho de que Indonesia estableció una Comisión Nacional sobre Derechos Humanos en 1993 significa que algunos casos están siendo investigados más minuciosamente que antes, pero la comisión no tiene autoridad sobre el ejército indonesio, por no mencionar la política indonesia de anexión.

Los juicios contra los manifestantes comenzaron en julio de 1997. A fin de año estaban todavía en proceso. La experiencia demuestra que si alguien es acusado por crímenes contra el estado o el jefe de estado en un tribunal indonesio, es muy difícil que sea declarado ino-

cente, especialmente si el acusado resulta ser un joven timorés oriental que se atreve a desafiar la ocupación de Indonesia del territorio.

Fotos de tortura y otros abusos

Desde la invasión indonesia a Timor Oriental en 1975, la mayoría de las pruebas sobre las violaciones de derechos humanos han surgido en forma de relatos escritos sacados clandestinamente fuera del país o por declaraciones orales por parte de refugiados que viven en el exilio. Han habido muy pocas imágenes a disposición. La razón es obvia: durante muchos años los indonesios mantuvieron aislado al territorio del mundo exterior. En 1989 fue oficialmente abierto a turistas y otros, pero todavía es difícil o imposible para los miembros de la prensa realizar cualquier tipo de trabajo significativo en el país. Sin embargo, se han obtenido algunas fotografías y películas durante los últimos años.

En 1997, el Centro Internacional de Apoyo a Timor Oriental (ETISC), con sede en Darwin publicó un folleto con muchas imágenes conmovedoras de tortura y otros abusos cometidos por las tropas indonesias. El folleto, *Violaciones de los Derechos Humanos en Timor Oriental*, contiene un total de 69 fotografías del lado oscuro de la vida en Timor Oriental: 24 en color y 43 en blanco y negro. La mayoría son fotos, pero unas cuantas son fotografías sacadas de una cinta de video. Algunas fueron tomadas por un periodista extranjeros cuyo nombre es conocido, pero la mayoría han sido tomadas por personas anónimas.

Las fotos más antiguas son de 1979, tomadas por el periodista australiano Peter Rodgers, quien tuvo que sacar clandestinamente sus fotos del país para evitar la censura indonesia. Las más recientes se presume que son de 1997. La selección más antigua muestra la hambruna que reinó desde 1979 hasta 1982; el resto muestra torturas y otros tipos de abusos físicos.

La autenticidad de una foto tomada por un periodista cuyo nombre es conocido no se pone en duda. ¿Pero qué pasa con las fotos tomadas por una persona anónima? ¿Pueden ser realmente genuinas? Obviamente, ETISC cree en ellas. Por eso el grupo decidió publicarlas. Los indonesios, por otro lado, han negado sistemáticamente la autentici-

dad de estas u otras fotos similares, alegando que son falsas o arregladas con el fin de desacreditar al gobierno de Indonesia.

¿Qué podemos pensar? Obviamente, los indonesios no invitan a miembros de la resistencia a tomar fotos de torturas y luego enviarlas al exterior para su publicación. ¿Entonces, cómo sucede? Human Rights Watch/Asia ofreció una explicación en su informe de septiembre de 1997:

> La tortura se ha convertido aparentemente en una fuente de ingreso para funcionarios particulares en Timor Oriental quienes están vendiendo fotografías e incluso cintas de video de interrogatorios al mejor postor, y el precio aumenta cuanto más detalles son incluidos (como dónde y cuándo sucedió el interrogatorio).

Algunos soldados indonesios toman fotos o cintas de vídeo de sesiones de tortura. Lo hacen con motivos de documentación militar o simplemente para tener un recuerdo personal y macabro. Más tarde, algunos soldados venden esta evidencia para hacer un poco de dinero extra. Las imágenes publicadas en el folleto australiano puede muy bien ser genuinas. Pero esto no significa que toda imagen conmovedora pretendiendo mostrar la tortura en Timor Oriental sea auténtica.

En su informe de septiembre de 1997, Human Rights Watch/Asia declara: "En julio de 1997, vimos una serie de fotografías que habían sido compradas de esta manera y hablamos con el comprador quien solicitó que no usáramos su nombre o el del oficial que le vendió las fotos". Pero en el informe no publican ninguna de ellas, sugiriendo que ellos cuestionan su autenticidad.

Las mujeres de Timor Oriental

El pueblo de Timor Oriental ha sufrido durante más de 20 años bajo la ocupación indonesia. Quizá un grupo haya sufrido más que el resto: las mujeres de Timor Oriental han sido sometidas a un destino que es particularmente desagradable. Ellas constituyen la mitad de la población, pero sus problemas e intereses son generalmente ignorados cuando se discute el conflicto.

A través de los años, muchos observadores han mencionado la opresión de Indonesia de las mujeres de Timor Oriental, pero el tópico nunca ha sido explorado en profundidad. Amnistía Internacional publicó un documento sobre las mujeres en Indonesia y Timor Oriental en 1995, pero aparentemente nadie había hecho una investigación detallada de este tema hasta finales de 1997 cuando el Centro de Derechos Humanos de Timor Oriental publicó dos informes. El primero fue escrito por la académica americana, Miranda E. Sissons, de la Universidad de Yale, el segundo por un disidente indonesio, George Aditjondro, quien actualmente vive en el exilio en Australia, donde enseña en la Universidad de Newcastle.

Miranda Sissons se concentra en la esterilización coercitiva de mujeres y la planificación familiar obligatoria según el programa de planificación familiar indonesio conocido como *Keluarga Berencana Nasional*, mientras que George Aditjondro se ocupa de la violación y otras formas de abusos sexuales; hostigamiento sexual, "casamientos" forzados; el uso de las mujeres como "esclavas sexuales" o "mujeres para la complacencia"; y la prostitución.

¿Por qué se demoró 20 años o más para que apareciera un estudio serio sobre las mujeres de Timor Oriental? La primera y más obvia explicación es que es difícil realizar trabajo de campo sobre la violencia contra las mujeres, o contra cualquiera en realidad, en Timor Oriental a causa de la presencia del ejército indonesio. Una segunda explicación es que las mujeres de Timor Oriental son extremadamente reacias a hablar sobre estos temas. No hay casi nadie a quien puedan recurrir en esta sensible área. Una tercera explicación es que la gente que habla y escribe sobre Timor Oriental no ha prestado demasiado atención a este aspecto del conflicto. Esta crítica es también aplicable a los mismos timoreses orientales. Al menos un miembro femenino del movimiento de resistencia (Milena Pires) se ha quejado de que hay demasiado pocas mujeres en la dirección de la organización.

Algunos hombres dominan y abusan de las mujeres. Sucede en todo el mundo. Pero en la mayoría de los lugares es una excepción y no parte de una política gubernamental. En Timor Oriental la situación es bastante diferente. Aquí la dominación está integrada al sistema a causa de la brutal ocupación de Indonesia: por un lado tenemos hombres

indonesios en el poder (ejército, policía o burocracia); por el otro tenemos mujeres timoresas. ¿Cómo se pueden defender? Y, en caso de que sus derechos sean violados, ¿cómo pueden tener esperanza en la justicia del mismo sistema que las violó?

Triste a la vez que alentadora

La historia reciente de Timor Oriental es triste pero al mismo tiempo alentadora: es una triste historia de un crimen contra un pueblo a cargo del régimen militar indonesio, apoyado por los países occidentales. Al mismo tiempo es una historia alentadora de un pueblo que continúa luchando por la paz y la justicia contra fuerzas apabullantes.

Indonesia trata de comprar al pueblo de Timor Oriental con el así llamado "desarrollo", es decir, grandes inversiones en caminos y facilidades públicas y de golpearlos hasta la obediencia con la muerte y la destrucción, con prisiones y tortura. Los países occidentales tratan de ignorarlos. Pero los timoreses orientales se niegan a rendirse, y la verdad rehúsa desaparecer.

El conflicto sobre Timor Oriental fue originalmente un producto de la Guerra Fría. Los crímenes de Indonesia contra el diminuto territorio fueron aceptados y justificados por los gobiernos occidentales porque la dictadura anticomunista de Yakarta era considerada un importante y necesario aliado en la lucha ideológica entre el Este y el Oeste. Este argumento siempre fue dudoso, y ahora, con la desaparición de la Guerra Fría, no tiene absolutamente ningún valor.

El "Nuevo Orden Mundial" que fue proclamado por el Presidente de los EE.UU., George Bush, durante la Guerra del Golfo contra Iraq en 1991, suponía un mundo en el cual el derecho internacional sería respetado y donde los derechos humanos no deberían ceder ante cínicos intereses económicos. Pero hasta ahora, esta hermosa visión no se ha materializado en Timor Oriental.

Aunque la anexión de Timor Oriental nunca ha sido reconocida *de jure* por la comunidad internacional, ha existido un reconocimiento *de facto*. Muchos gobiernos occidentales han otorgado abundante apoyo diplomático, económico y militar al régimen de Suharto y su ilegal acción contra su vecino.

Un país, Australia, ha ido aún más lejos, otorgando reconocimiento no sólo *de facto* sino también *de jure* a la anexión (1978). En 1989 Australia e Indonesia firmaron un tratado formal para la explotación de recursos petrolíferos en el mar al sur de Timor Oriental, conocido como el Istmo de Timor, el cual el movimiento de resistencia considera como aguas territoriales timoresas.

Señalando estos y otros hechos similares algunos observadores dicen que la ocupación indonesia de Timor Oriental continúa en gran medida a causa de la connivencia e hipocresía de occidente.

No existe ninguna justificación legal o moral para la presencia de Indonesia en Timor Oriental, y los ejemplos de Eritrea, Namibia y los países bálticos demuestran que incluso una ocupación prolongada de un territorio extranjero no constituye garantía de posesión permanente: al final el agresor tuvo que retirarse y someterse al deseo del pueblo por derechos básicos y democráticos.

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Organizaciones

ETAN, East Timor Action Network, Post Office Box 1182, White Plains, NY 10602, USA; tel. (+1) 914-428-7299; fax (+1) 914-428-7383; e-mail: etan-us@igc.apc.org. Se puede conseguir mucho material sobre Timor Oriental de ETAN, incluyendo una lista comprehensiva de grupos de solidaridad en todo el mundo.

ETISC, East Timor International Support Center, P.O. Box 651 Nightcliff, Darwin 0814, Australia; tel. (+61) 8 8948 4458; fax (+61) 8 8948 4498; e-mail: etio@ozemail.com.au. Página web en Internet con mucha información y muchos vínculos útiles con otros sitios web: http://www.easttimor. com

INDONESIA

Incendios forestales causaron una destrucción sin precedentes

Se estima que 2 millones de hectáreas de tierras forestales y no forestales fueron destruidas el año pasado por los peores incendios forestales de la historia de Indonesia. No obstante, la ONG ambiental indonesia WALHI predice que los incendios de este año pueden ser incluso mayores que el desastre del año pasado. Según Klaus Töpfer, director ejecutivo del Programa de las Naciones Unidas para el Medio Ambiente (UNEP), los incendios "pueden resultar ser uno de los mayores desastres ecológicos del milenio" (*Reuter* 2/4/98). Debido a la prolongada sequía, este año, inusualmente, los incendios están destruyendo grandes áreas de bosques tropicales maduros, normalmente demasiado húmedos para quemarse completamente. Estos incendios no sólo devastaron vastas zonas de bosque y tierras de cultivo, sino que han puesto en peligro la salud de decenas de millones de personas de al menos seis países. La contaminación y el humo sofocaron las ciudades y el campo en un área de millones de kilómetros cuadrados, desde Indonesia hasta Tailandia y las Filipinas.

Para los habitantes indígenas de los bosques de Indonesia el precio es doblemente alto: sufrieron los efectos de respirar el aire envenenado, y sus tierras y recursos, usurpados por las compañías madereras y plantaciones, se han literalmente hecho humo.

Este año, las imágenes satelitales pudieron mostrar lo que la mayoría de la gente ya sabía: que las grandes empresas y no los pequeños propietarios o agricultores indígenas son las responsables de los incendios. Lo que fue nuevo esta vez es que los ministros del gobierno, especialmente el Ministro del Medio Ambiente, Sarwono, se expresó en contra de la codicia y el cortoplacismo de las compañías madereras y plantaciones. "Tienen un alto nivel de educación, pero una forma

primitiva de pensar. Sólo buscan las grandes ganancias, sin pensar en el interés nacional", dijo un emocionado Sarwono en una conferencia de prensa el pasado mes de septiembre.

El Ministro de Forestería, Djamaludin, ha apoyado a Sarwono, publicando listas de compañías identificadas por las imágenes satelitales como responsables del comienzo de los incendios. La lista más completa de estas nombra a 176 compañías e incluye compañías de propiedad de los más poderosos empresarios de Indonesia -Bob Hasan, Pangestu Prayogo (Barito Pacific Group), Anthony Salim (Salim Group) y Eka Tjipta Wijaya (Sinar Mas)- así como también miembros de la misma familia Suharto. Algunas de las 176 compañías comenzaron a limpiar la tierra sin esperar que sus solicitudes para la limpieza de la misma fueran aprobadas. Djamaludin anunció que estas compañías tenían quince días para presentar informes que probaran que no habían comenzado los incendios, o se les quitarían sus licencias. A comienzos de octubre, anunció que 151 habían sido retiradas licencias de 29 compañías, incluyendo tres que pertenecen a Bob Hasan en Kalimantan Oriental. Una compañía de la lista de 29, que se dedica a las plantaciones, es PT Musi Rindang Wahana, en el sur de Sumatra, parte del Grupo Citra Lamtoro, controlado por la hija mayor del recientemente derrocado presidente Suharto, Tutut (*Forum Keadilan* 23/6/94). Queda por verse cuán lejos Bob Hasan y sus amigos permitirán que Djamaludin llegue en la oposición a su autoridad (Bob Hasan es a veces referido como el "verdadero" ministro de forestería). En ocasiones previas, cuando los ministros han desafiado a los grandes empresarios, generalmente han sido forzados a retroceder.

La industria intenta defenderse, pero sus argumentos suenan particularmente vacíos cuando los pares de Bob Hasan admiten que no ven nada erróneo en quemar para limpiar la tierra, aunque haya sido oficialmente ilegalizado por el gobierno. El hecho de que la quema deliberada todavía continúa muestra, en cambio, cuán confidentes están los grandes empresarios de estar por sobre la ley. Tal es la cultura del amiguismo que ha pervertido la vida económica indonesia.

Explotación maderera y plantaciones

La masiva y permanente pérdida de los bosques naturales de Indonesia es un resultado directo de la carrera de las compañías madereras para lograr el mayor beneficio posible a corto plazo, a expensas de los mismos bosques y las comunidades indígenas y no-indígenas que viven en los mismos y que tradicionalmente son sus dueños.

Este énfasis en "explorar"los bosques hace que los incendios y la contaminación sean inevitables. El talado implica extraer los más valiosos árboles comerciales, pero la maquinaria pesada utilizada tira al mismo tiempo muchos más árboles pequeños o no comerciales, dejando grandes cantidades de maderera de desecho. Como se seca al sol, que ahora puede penetrar la cúpula forestal quebrantada, se convierte en un yesquero natural, que se enciende a la primera chispa. Al mismo tiempo, muchos bosques crecen sobre depósitos de turba y carbón, que se queman en lo profundo del subsuelo y pueden resultar imposibles de apagar. Mucho tiempo después de que los incendios de la superficie son apagados en Kalimantan y Sumatra, estos incendios invisibles, subterráneos, pueden arder en rescoldo durante años.

Pero la conversión de enormes zonas de bosques en plantaciones emergió como la política más directamente culpable de los incendios y su humo, que ponen en peligro a las vidas. El impulso para plantar cultivos de exportación de alto rendimiento económico, es parte de la estrategia del gobierno para reducir la dependencia del petróleo y del gas para la obtención de moneda extranjera. El actual delirio es plantar toda la tierra posible con palmeras oleaginosas y poner a Malaysia en la posición del mayor productor del mundo de aceite de palma.

Yakarta planea duplicar el área de palmera oleaginosa a 5,5 millones de hectáreas para el año 2000. Sólo este año, se aprobó la conversión de 300.000 hectáreas de bosques para el cultivo, el cual es usado para hacer jabón, margarina y aceite comestible. Mientras tanto, Yakarta tiene similares ambiciones con respecto a la producción de pulpa, teniendo como objetivo convertirse en el mayor productor del mundo en algún momento indefinido del próximo siglo. El objetivo en cuanto a la superficie de las haciendas madereras para producir

pulpa de madera es de 4,4 millones de hectáreas para el 2004 (*Guardian* 14/10/97).

Para dejar lugar a las plantaciones, los bosques naturales que usualmente han sido cortados para obtener madera comercial, son limpiados mediante la quema porque es el método más barato y rápido de preparar la tierra. De acuerdo con el Ministro de Forestería, Djamaludin, unas 550.000 hectáreas de bosque naturales son limpiadas cada año solamente para plantaciones.

En septiembre del año pasado, Djamaludin dijo que 650 compañías estaban esperando permisos del gobierno para convertir bosques en plantaciones. Si todos los permisos son otorgados, serían convertidas unas 6 millones de hectáreas de bosque (*Jakarta Post* 15/9/96). El caso del pueblo *bentian* de Kalimantan Oriental ilustra cuán inescrupulosamente son tratadas las comunidades indígenas por estas compañías y qué poca protección pueden obtener del extremadamente corrupto sistema judicial del estado indonesio.

En 1993, una Plantación Industrial de Árboles (HTI, Hutan Tanaman Industri) operada por Utama Logging Concession Holder (Kalimanis Group), comenzó a limpiar, arrasar, y quemar plantíos de rattan de los indígenas *bentian*, sin consultarlos y sin su consentimiento. Los horrorizados bentian pidieron a la compañía que no destruyera sus plantíos de rattan, los cuales representan la base del ingreso monetario de la comunidad. Reiteraron su apoyo a HTI y le ofrecieron poner tierra a su disposición en un lugar que no estaban en el corazón de su bosque más valioso. Desgraciadamente, la compañía se negó a escuchar o negociar y siguió arrasando y quemando los plantíos de los bentian. Por el contrario, en respuesta al pedido de la comunidad, iniciaron una campaña de terror e intimidación. Lograron que el jefe de policía local estableciera una puesto policial dentro del campamento base de la compañía y realizara interrogatorios intimidatorios a los agricultores locales en el campamento. Pak Dingit, un líder *adat* bentian y un conocido activista indígena por el medio ambiente, junto con otros, documentó la destrucción y tomó fotografías de los plantíos quemados y los cementerios arruinados donde se veían las osamentas de los ancestros de

los bentian que estaban esparcidas por el suelo después que la compañía arrasó los cementerios.

Pak Dingit también ayudó a las familias perjudicadas a hacer listas de los plantíos de rattan y los árboles frutales destruidos, de posesión de cada familia. Fueron destruidas más de 10.000 matas de rattan y 2.000 árboles frutales (incluyendo especies amenazadas de Koompasia, prohibidas de talar tanto por la ley *adat* bentian como por la ley forestal nacional).

Después de que Pak Dingit ayudó a las familias afectadas a hacer listas de sus frutales destruidos, presentó las listas a los funcionarios gubernamentales responsables e informó sobre las actividades de la Concesión Maderera (HPH, Hak Pengusahaan Hutan) y la Plantación Industrial de Árboles. El único resultado fue que se ordenó repetidamente a Pak Dingit a presentarse a interrogatorios en la comisaría de policía de Blikpapan. Para cada interrogatorio tenía que viajar a su propio costo más de 500 kilómetros, ida y vuelta, de la región media de Mahakam a Balikpapan. El propósito de los interrogatorios (además de pura intimidación) nunca quedó claro.

Finalmente, se le dijo que se le iba a hacer juicio acusado de falsificación porque algunos de los nombres de la lista que había ayudado a hacer eran (según el *adat* bentian relativo a la identificación de parcelas de tierra) nombres de personas fallecidas o del nuevo marido de una mujer divorciada.

El hecho de que la compañía cortó ilegalmente especies de árboles amenazadas y destruyó los medios de subsistencia de las familias nunca fue adecuadamente encarado a nivel provincial. No obstante, en Yakarta, el Ministro de Forestería (Director General Pak Titus) ha colaborado con los bentian para ayudarlos a separar una porción de sus tierras de HTI. Pak Siswono declaró en 1994 que no se realizaría ninguna transmigración para la planeada HTI-Trans (una HTI detentada por una compañía pero trabajada por trabajadores transmigrantes) hasta que los problemas hubieran sido resueltos. Pero la compañía ignoró su declaración y ubicó cientos de transmigrantes en tierras bentian en el medio del conflicto.

En febrero de este año, Pak Dingit, fue llevado a la Corte Estatal de Tenggrong, la capital del distrito de Kutai, para enfrentar cargos extra-

624

vagantes y fraudulentos de falsificación y una posible sentencia de prisión de seis años. El Fiscal Público (Penuntut Umum), Pak Mohammad Imam, ha dicho en confianza a amigos que fue forzado por "partes innominadas" a presentar el caso contra Pak Dingit y a asegurar que sea castigado. Durante las dos audiencias, el Juez ha sido visto hablando por teléfono, aparentemente a "Yakarta". Unos pocos años antes, hubo un caso similar en Tenggarong que involucró a agricultores locales dayak que tenían problemas con una HPH y una mina de oro. Uno de los líderes, un hombre de casi la misma edad que Pak Dingit (59), fue detenido en la prisión de Tenggarong. Pronto murió "misteriosamente" en la cárcel y su cadáver fue entregado a su familia en un ataúd sellado, junto con un pago de 1 millón de rupias.

Hasta ahora, el juicio contra Pak Dingit todavía no ha llamado la atención de los medios de difusión internacionales, que están actualmente centrados en Indonesia. Es solamente una cuestión de tiempo para que este caso sea ampliamente conocido y se convierta en una fuente adicional de vergüenza para toda Indonesia. Pak Dingit es uno de los más importantes activistas ambientalistas de Indonesia, quien ha demostrado un ingenioso método indonesio de conservación y desarrollo. El periódico de la Embajada Indonesia publicó un ardiente artículo sobre él y sus esfuerzos conservacionistas han sido usados por el gobierno de Indonesia en sus intentos de trabajo de "lobby" ante el Congreso de los EE.UU. Se presume que los funcionarios provinciales de Kalimantan Oriental, acostumbrados a realizar sus operativos en relativa oscuridad, no comprenden las implicaciones nacionales e internacionales de sus extravagantes y descarriados intentos de procesar a Pak Dingit.

Mega-proyecto de transmigración en Kalimantan Central

En septiembre de 1997, el Ministro de Transmigración, Siswono, confirmó que los incendios habían quemado al menos 100 casas desocupadas construidas para los transmigrantes traídos para trabajar en la megalómana conversión de tierras y en el proyecto de transmigración de Kalimantan central. Apenas un mes después de eso, el Ministro de Agricultura, Sjarifuddin Baharsjah, dijo que la sequía no afectaba al

proyecto y que más de 20.000 familias serían trasladadas como estaba planeado para unirse a las 2.500 ya establecidas allí. Apenas una semana después, otro periódico local informó que los transmigrantes del proyecto, incapaces de cultivar en las condiciones de sequía, estaban retornando a su lugar de origen o recurrían a la tala ilegal de árboles para subsistir (*Media* 22/8/97).

El proyecto, lanzado en 1996, tiene como objetivo convertir unas 1,45 millones de hectáreas de bosques pantanosos de turba -un área del tamaño de Irlanda del Norte- en arrozales, plantaciones y asentamientos de transmigrantes. Los científicos dicen que el proyecto no puede tener éxito porque las tierras de turba no soportarán este tipo de agricultura. No obstante, bajo las instrucciones de Suharto, el proyecto continúa y los bosques son quemados hasta el suelo en lo que un periodista recientemente calificó como un acto de "rufianismo" patrocinado por el gobierno más que de desarrollo. Las vidas de los indígenas *dayak* que viven en el área del proyecto han sido devastadas por el mismo.

Hambre en Kalimantan Oriental

La crisis económica que golpeó tan fuerte a Indonesia hace que las cosas sean aun peores. Los aldeanos no pueden acceder a los precios inflados del arroz y otros artículos de los cuales ahora dependen, ya que se están quedando sin alimentos producidos por ellos mismos. Las perspectivas de futuro son negras. Casi toda la cosecha de arroz de este año ha fallado en Kalimantan Oriental y muchas de las huertas de rattan y frutales, que normalmente generan un ingreso extra, han sido consumidas por el fuego. No se esperan lluvias sustanciales antes de julio o agosto, lo cual significa que no habrá cosecha de arroz hasta febrero de 1999.

Veinte mil personas ya enfrentaban severas carencias de alimentos en febrero, según un informe en *The Age* (22/2/98), ya que no ha caído ninguna lluvia significante en la usual estación lluviosa. Al mismo tiempo, los aldeanos dayak de Kutak, representando a unas 8.000 personas, fueron a solicitar al vice gobernador de Kalimantan Oriental que les suministrara en forma gratuita arroz para las aldeas afectadas.

Hacia abril de este año, la cifra oficial de personas que sufren de carencia de alimentos se había elevado a 55.529 (*Kompas* 2/3/98, 3/4/98, *Kompas* OnLine 9/3/98).

La carencia de agua es muy severa debido a la sequía pues los esfuerzos para apagar los incendios y las comunidades dependen de los mismos magros recursos. Los ríos secos no permiten pescar y hacen que el transporte de suministros alimenticios sea más difícil. En algunas áreas, los niveles de acidez hace que el agua dulce no sea potable.

Existen evidencias de que los incendios y el hambre están reforzando la marginación de las comunidades indígenas dayak. Un informe relata cómo las compañías utilizan los incendios para tratar de forzar a los habitantes locales a que abandonen sus tierras. Los dayak de la aldea de Lempunah, que se negaron a intercambiar su tierra por lugares en un proyecto de palmera oleaginosa, han visto a su aldea golpeada por incendios misteriosos (*Independent* 9/2/98). En otros lugares, los dayak que han sido coaccionados o forzados a cambiar tierra por alimentos no tienen otra opción que trabajar por salarios mínimos en las plantaciones. Algunos creen que las compañías están quemando las huertas locales de frutos y rattan a propósito para forzar un reasentamiento de las comunidades que se resisten. Al mismo tiempo, algunos aldeanos se están vengando y prenden fuego a las plantaciones establecidas por las grandes compañías.

Como en Papúa Occidental (ver artículo en el Capítulo sobre El Pacífico y Australia), el gobierno parece reacio a admitir la seriedad de la amenaza del hambre. Un funcionario del departamento forestal sugirió que los incendios y la carencia de alimentos seguían un ciclo de quince años - en un intento de minimizar los problemas adjudicándolos a las fuerzas naturales. Pero esto lo contradijo un líder dayak *kenyah* de Muara Anclong, en el distrito de Kutai, quien dice que su comunidad no ha experimentado carencia de alimentos debido a incendios de bosques desde la ocupación japonesa (*Kompas* OnLine 12/3/98). Se dice que los habitantes locales son forzados a vender sus tierras, a causa del hambre, a la compañía local de la plantación de palmera oleaginosa al precio de una hectárea por 10 kg de arroz.

627

Hasta ahora la respuesta del gobierno ha sido funestamente inadecuada. Se ha enviado algo de arroz río arriba, pero existen informes de que los suministros de ayuda son vendidos por funcionarios corruptos en vez de ser entregados libre de cargo. Queda por verse cuanto se comprometerá el nuevo gobierno para aliviar la pobreza de las remotas comunidades indígenas: "tribus aisladas" como son llamadas oficialmente.

Irónicamente, entre las muy pocas fuentes de asistencia se encuentran las compañías que están explotando más intensamente la riqueza natural de la provincia. La asociación de madereros indonesios, la MPI, ha entregado arroz, fideos instantáneos, azúcar, sal y medicinas - un pequeño pago, por cierto, comparado con las enormes ganancias extraídas de los bosques tradicionalmente poseídos por las comunidades que hoy enfrentan al hambre. La compañía minera aurífera PT Kelian Equatorial Mining (PT KEM), parcialmente poseída por la compañía británica Rio Tinto, dijo en marzo que estaba planificando una operación de cuatro meses para llevar ayuda a 67.000 personas en cuatro subdistritos (*Guardian* 23/3/98).

Fuentes

Down To Earth No. 35, noviembre 1997 Special Supplement. The 1997 Fires: Responsibility Rests with Suharto.

Down to Earth No. 37, mayo, 1998.

MALAYSIA

Sabah

Crisis económica y de contaminación atmosférica

La crisis económica que comenzó a comienzos de 1997 dominó el panorama en Sabah. Como resultado de la crisis, hubo una reorientación de los programas de desarrollo del estado. Se puso énfasis en el consumo de productos producidos localmente y en el renacimiento del sector agrícola para aumentar las exportaciones y la producción de alimentos. Este cambio político es bueno para las comunidades indígenas, de alguna manera. Las comunidades que residen cerca de áreas pobladas gozaron de un mercado más responsivo a sus productos agrí-

colas, aparte de que el departamento agrícola y otras agencias gubernamentales relevantes les dieron más atención y apoyo. La suspensión de algunos proyectos de desarrollo, como hoteles, balnearios y canchas de golf evitó que algunas comunidades fueran desplazadas de sus tierras consuetudinarias. No obstante, como el sector industrial y manufacturero, que todavía depende en sumo grado de materiales importados, no marcha bien, se han realizado más inversiones para la ampliación de las ya existentes plantaciones de palmera oleaginosa y la forestación, y esto ha puesto en peligro la propiedad de la tierra tradicional. La caída del valor del *ringgit* a menos de la mitad también resultó en un alza de precios de productos esenciales como el azúcar, la harina y el aceite de cocina.

En Borneo, también dominó la escena la crisis de contaminación atmosférica resultante de la combinación del inusual clima seco y el aumento de la quema de bosques talados por parte de compañías privadas para el establecimiento de plantaciones de palmera oleaginosa y forestación. En el pico, a finales del tercer semestre de 1997, Sabah estaba cubierta de contaminación atmosférica, con una visibilidad reducida a entre seis y diez kilómetros, y su pueblo fue sofocado durante casi cuatro meses. Durante este período, las comunidades indígenas que todavía practican el método tradicional de limpieza de tierras para la agricultura no se salvaron de la acusación del gobierno. El efecto de la contaminación atmosférica junto con la prolongada sequía fue la reducción de la producción agrícola del estado. Los arroceros indígenas de Sabah tuvieron una de sus peores cosechas arroceras en años. Por ejemplo, los agricultores de Sabah occidental, se quejaron de una reducción de casi un 50% de su cosecha. Algunos agricultores que fueron severamente afectados ni siquiera tienen semillas para la próxima estación de sembrado.

Derechos territoriales

En noviembre de 1997, el gobierno del estado enmendó los Derechos Nativos Consuetudinarios (NCR) de la Ordenanza de Tierras de Sabah de 1930 (Cap. 68), a pesar de la enconada objeción del partido opositor. La enmienda otorga al gobierno el poder de extinguir los derechos a la tierra sustentados en la NCR mediante el pago de dinero.

No existe ninguna previsión que requiera al gobierno que celebre una consulta pública para determinar los derechos de las partes afectadas. Tampoco existe ningún requisito de que la apropiación de tierras detentadas bajo el régimen de la NCR sea de interés público, como sucede en el caso de las tierras con títulos. No hay nada que impida al gobierno enajenar la misma tierra a un nuevo solicitante para la explotación privada, inmediatamente o más adelante. Es muy claro que esta enmienda tiene el efecto de diminuir al NCR establecido de los pueblos indígenas de Sabah, los cuales constituyen casi un 70% de la población y que todavía dependen en grado sumo de la tierra para su subsistencia. Esta enmienda fue claramente concebida para pavimentar el camino para el establecimiento de plantaciones de propiedad privada, hoteles, balnearios y canchas de golf, lo cual está en conflicto con los intereses de las comunidades indígenas.

El manejo de los recursos naturales

Septiembre de 1997 fue testigo del lanzamiento del Sistema de Manejo Forestal Sustentable de Sabah (SFMS), preparado por el Departamento de Forestería con el apoyo técnico y financiero del gobierno alemán a través de GTZ. Durante los últimos dos años, el SFMS ha sido implementado en la Reserva Forestal Deramakot, como proyecto piloto, y ahora está siendo introducido a otras 16 Unidades de Manejo Forestal (FMUs) del estado. Para el año 2004, el gobierno del estado espera que todas las reservas forestales comerciales sean manejadas de la misma manera que Deramakot. La Organización Internacional de la Madera Tropical (ITTO) ha establecido que para el año 2000, a los países consumidores sólo les será permitido comprar troncos cortados que provengan de un bosque con una base sustentable. El manejo de las FMUs implica la división del bosque en cuatro grupos para: (i) la protección del suelo, las aguas, el clima, la flora y la fauna, (ii) la producción de madera y los derechos consuetudinarios a recoger frutos, rattan, animales salvajes y plantas medicinales, (iii) recreación para la población urbana y los turistas, y (iv) las necesidades comunitarias para suministrar a la población local que vive en las áreas forestales o cerca de ellas. Actualmente, ya se otorgaron 10 FMUs (cada una de 100.000 hectáreas y una tenencia por cien años) a 10 com-

pañías privadas para que los manejen sustentablemente. Todas las 2,7 millones de hectáreas de reservas forestales comerciales serán eventualmente otorgadas a concesionarios privados. Casi 1 millón de hectáreas están actualmente bajo el manejo de la Fundación Sabah.

Aunque el objetivo del SFMS es loable y merece el pleno apoyo de todas las partes, y a largo plazo debería ser beneficioso para las comunidades indígenas y el estado como un todo, todavía está por verse si puede ser implementado exitosamente. Se ha dicho mucho sobre esta política, tanto por el gobierno como por la oposición. La falta de transparencia en todo el asunto del otorgamiento de FMUs a compañías privadas ha sido el primer tropiezo para su implementación exitosa. Nadie sabe realmente cómo se adjudicaron las FMUs, pero la afirmación del partido opositor de que no fue de acuerdo a los procedimientos adecuados, parece justificada. Algunas de las compañías privadas seleccionadas para manejar las FMUs no están calificadas en absoluto y la mayoría no tiene ninguna experiencia en el manejo forestal. La mayoría de las compañías son ya propietarias de concesiones madereras, y han sido responsables de la deplorable condición actual de los bosques de Sabah. Ciertamente, el interés de las comunidades locales es dejado de lado y sus derechos a su tierra consuetudinaria no son respetados por los implementadores del SFMS. Por lo tanto, el manejo adecuado de las FMUs es cuestionable en este estadio, y si se deja sin supervisar, puede conducir a un mayor daño ambiental y a una mayor miseria humana.

Los temas relativos a la conservación han ganado terreno como resultado del trabajo del WWF Malaysia y otras ONGs. Por ejemplo, el año 1997 fue testigo de la formulación de una política nacional sobre la biodiversidad como consecuencia del Convenio sobre la Biodiversidad. Aunque la conservación de recursos es necesaria, sus objetivos pueden ser contrarios a los intereses de las comunidades indígenas. En Sabah, el registro del área del Bajo Kinabatangan como área de conservación en 1996 ha creado problemas para el pueblo en términos de acceso a sus recursos tradicionales. La industria del ecoturismo, activamente promovida aquí para generar fuentes alternativas de subsistencia, no ha beneficiado a los habitantes locales, ya que su participación es bastante mínima.

Red de Pueblos Indígenas

Continuó la campaña de la Red de Pueblos Indígenas de Malaysia para obtener el reconocimiento de sus derechos a la tierra, la cultura y la identidad como pueblos indígenas. En octubre de 1997, se celebró el quinto Seminario Nacional en Malaysia Peninsular con representantes provenientes de Sabah (12), Sarawak (12) y Malaysia Peninsular (13). El tema del seminario trataba sobre el desarrollo de sistemas económicos tradicionales. También se discutieron temas sobre biopiratería.

En Sabah, la red de representantes organizó varios seminarios comunales para discutir los derechos a los recursos naturales en términos de uso, manejo, propiedad y límites. Por ejemplo, en agosto de 1997, más de 50 personas de 8 aldeas del norte de Sabah participaron en un seminario de cartografiado para discutir sobre las capacidades comunitarias de cartografiado y las metodologías. Como resultado del seminario, los participantes fueron capaces de cartografiar ellos mismos los límites de sus aldeas y resolver las superposiciones y las disputas sobre límites. Esta actividad es también un paso inicial para recobrar su tierra consuetudinaria, invadida por la agencia estatal (SAFODA), que se ocupa de proyectos de forestación.

Sarawak

Los *dayak*, los diversos pueblos indígenas que habitan la isla de Borneo, constituyen un 49% de la población de 1,9 millones de personas de Sarawak. Son las comunidades más rurales del estado, ya que el 95% de su población total reside en áreas rurales. Son agricultores de subsistencia, pescadores de agua dulce, cazadores y recolectores.

Durante todo el año 1997, las comunidades indígenas se han enfrentado a una multitud de temas y problemas como resultado de diversos programas y actividades de desarrollo implementados por el gobierno y el sector privado. Esas actividades amenazan seriamente su supervivencia, los derechos territoriales consuetudinarios y los derechos sobre los recursos que representan la seguridad para la mayoría de los grupos indígenas dayak de Sarawak.

La explotación maderera

Las actividades madereras continúan y están extendidas en todo el estado. Un 70% del área territorial de Sarawak ha sido otorgada en licencia a compañias madereras. La mayoría de las licencias madereras están otorgadas sobre la tierra consuetudinaria de las comunidades indígenas. En muchos casos, se encuentra que las concesiones madereras se han superpuesto o cubierto la tierra consuetudinaria indígenas dentro de los límites de las comunidades indígenas sin su conocimiento o informado consentimiento. La explotación maderera ha sido realizada indiscriminadamente por las compañías madereras, lo cual ha conducido a una gran destrucción de tierras, cosechas, cementerios, recursos forestales y contaminación de ríos. Los indígenas han presentado muchas quejas a las autoridades con relación a estos problemas, peros sus quejas son continuamente ignoradas.

Entre 1987 y comienzos de los 90, las comunidades indígenas establecieron una serie de importantes bloqueos a través de los caminos madereros del estado para impedir la entrada a los taladores y la destrucción de sus tierras y bosques consuetudinarios. Durante este período, cientos de indígenas fueron arrestados, detenidos, acusados y encarcelados a causa de los bloqueos madereros. Estos bloqueos interrumpieron las actividades de talado en todo el estado.

Actualmente, los pueblos indígenas todavía están erigiendo bloqueos y protestando contra las compañías madereras en el interior de Sarawak. No obstante, hay un silencio total de los medios de difusión (localmente, nacionalmente e incluso internacionalmente) sobre la cuestión. En marzo de 1997, la comunidad pe*nan* del interior de la Región de Baram fue muy maltratada por un grupo de la Fuerza Policial de Campo (PFF) durante una protesta pacífica contra el talado. La PFF arrestó a cuatro penan e hirió a varios otros. Fueron acusados en la Corte de Marudi de asamblea ilegal. Poco después de que fueran liberados, la policía les volvió a arrestar por supuesto robo. Su caso está aun pendiente. En otro bloqueo en Ensika, División Kota Samarahan, 25 *iban* fueron arrestados y se enfrentan a severas acusaciones criminales.

Plantaciones

El Gobierno del Estado de Sarawak planea desarrollar 1,5 millones de hectáreas de tierras indígenas consuetudinarias como plantaciones de palmera oleaginosa. Se han designado grandes zonas de tierra que incluyen tierra consuetudinaria de los indígenas para ser enajenadas por el gobierno para desarrollar plantaciones según el "Nuevo Concepto" de desarrollo de Tierra Nativa Consuetudinaria (NCL).

Indígenas dayak durante un bloqueo de un camino maderero en Long Geng, Sarawak (Foto: Nigel Dickenson/Leader Photos).

Recientemente, para permitir a las compañías privadas adquirir y desarrollar tierra nativa consuetudinaria, la Asamblea Legislativa del estado enmendó la ley rural para otorgar al Ministro poderes para extinguir los derechos nativos consuetudinarios, no sólo en el interés nacional sino también en favor de las empresas privadas.

Al implementar el programa de desarrollo rural, el gobierno otorga fundamentalmente arrendamientos provisorios a los organismos/agen-

634

cias estatutarias estatales o a compañías privadas durante un período de 60 a 90 años. Una vez que la tierra ha sido arrendada, las agencias o las compañías privadas se convierten en propietarios de la tierra. La mayoría de las NCL han sido apropiadas por compañías privadas que son de propiedad estatal o de propiedad de la misma gente a la cual se le otorgó las licencias o permisos para convertir estas tierras en plantaciones de palmera oleaginosa, sin el conocimiento o el consentimiento de las comunidades indígenas.

Las comunidades indígenas se oponen y resisten la implementación de las plantaciones de palmera oleaginosa dentro de sus NCL y la adquisición de sus tierras consuetudinarias para ese propósito. Las comunidades indígenas están protestando activamente para detener la operación de los implementadores de las plantaciones de palmera oleaginosa en aquellas áreas que están actualmente afectadas. Como resultado, han sido constantemente intimidados, hostigados, atacados y reprimidos por la policía. En 1997, más de 80 indígenas fueron arrestados y detenidos por resistirse a la usurpación de sus tierras por las plantaciones.

En un incidente reciente, el 19 de diciembre de 1997, unos 50 miembros del personal de la Fuerza Policial de Campo armados con bastones, pistolas y rifles M16, abrieron fuego contra los dayak iban, desarmados, durante una protesta pacífica dentro de su recinto enfrente de su "casa larga" en Rumah Bangga, Sungai Sebukut, Bakong, en el distrito de Baram de la División Miri. Tres iban fueron alcanzados por las balas. Enyan Ak Gendang, de 40 años, fue baleado en la frente y murió cinco días después en una unidad de cuidado intensivo en el Hospital General de Miri. Ocho resultaron heridos. Unos 30 iban fueron arrestados y detenidos.

Como reacción inmediata, algunas de las comunidades indígenas de "casas largas" que comprendieron que sus Tierras Nativas Consuetudinarias habían sido designadas para establecer plantaciones de palmera oleaginosa presentaron demandas legales contra las compañías ante la Alta Corte de Miri. Estos casos están pendientes para audiencia.

Además, el gobierno de Sarawak ha determinado que un millón de hectáreas de tierra sean dedicadas a la forestación. Hasta la fecha, unas 10 compañias madereras se han reunido con la Asociación Maderera de Sarawak y el Departamento Forestal para realizar investigaciones para identificar los intereses de inversores potenciales en este negocio.

En Tatau, en la División Bintulu, la Borneo Pulp & Paper Sdn. Bhd. ha enajenado 373.700 hectáreas de tierra para plantar acacias, eucaliptos y otras especies de árboles de crecimiento rápido. Las instalaciones de la planta procesadora de pulpa y papel están afectando a 12 comunidades iban de "casas largas" en Tatau Superior. El gobierno adquirió y extinguió sus Derechos Nativos Consuetudinarios (NCR) sobre un área de 6.200 hectáreas para el establecimiento de la planta, utilizando previsiones de las nuevas enmiendas del código rural de Sarawak. Los iban están disputando la extinción de su NCR y también presentaron un arbitraje ante la alta corte.

Proyecto Hidroeléctrico Bakun

El Proyecto Hidroeléctrico Bakun (BHEP) será construido en el Rio Balui, en el Distrito de Belaga en la División de Kapit. El proyecto fue otorgado sin condiciones a Ekran Berhad, una compañía de la lista pública con sede en Sarawak. Ekran, al ser la principal accionista de la Corporación Hidroeléctrica Bakun Bhd., subcontrató el proyecto a ABB (Asean Brown Boveri), un consorcio suizo-sueco, el cual es responsable de completar el proyecto para el año 2002. Su costo estimado es de RM3,6 mil millones y tendrá una capacidad para generar 2400 MW de electricidad que será principalmente suministrada a Malaysia Peninsular a través de un cable de transmisión submarino de alto voltaje de 640 km de longitud. BHEP será la represa más grande del Asia Suroriental y el proyecto infraestructural privatizado más grande y más polémico de Malaysia.

Si BHEP continúa, sumergirá un área territorial de 69.000 hectáreas y desplazará a 9.000 personas pertenecientes a los pueblos indígenas *kayan, kenyah, lahanan, ukit* y *penan*. El 80% de la tierra a ser inundada por la represa es tierra protegida por los Derechos Nativos Consuetudinarios. Desde que se empezó a debatir el plan del gobierno

de construir la represa Bakun, los indígenas afectados de Belaga se han opuesto vehementemente al mismo, ya que están profundamente conscientes de las amargas experiencias de los iban que fueron desplazados por la construcción del Proyecto Hidroeléctrico Batang Ai.

El trabajo preparatorio de construcción del proyecto de represa Bakun ha sido realizado durante 1997 y los túneles de desvío del río están casi finalizados. Los Derechos Nativos Consuetudinarios a la tierra dentro del área inundada de Bakun están considerados extinguidos desde febrero de 1997. A fines de 1997, algunos de los habitantes locales que habían tenido la esperanza de una justa compensación se vieron desilusionados al recibir tasas compensatorias muy bajas, variando de los RM 0,25 (US$0,063) a RM 60.000 (US$ 15.000). Los indígenas afectados serán desplazados de sus tierras ancestrales y reasentados en proyectos regimentados de plantaciones de palmeras oleaginosas en Sungai Asap, Koyan y Penyuna, en el área del río Belaga Superior. Sin embargo, a pesar de las serias consecuencias que pueden resultar de la reubicación, los 9.000 indígenas afectados de la región de Bakun siguen desinformados y la mayoría de ellos se opone a los proyectos de reasentamiento.

Mientras tanto, durante los últimos meses de 1997, debido a la severa crisis financiera que golpeó a Malaysia, el gobierno federal anunció que el proyecto de represa sería temporariamente detenido. La incertidumbre y la secrecía también rodean el nombre de los constructores de la represa pues el contrato entre Ekran y ABB fue anulado en octubre de 1997 y el gobierno anunció que se estaba haciendo a cargo del proyecto de Ekran a través del Ministerio de Finanzas Incorporadas, un fondo gubernamental de inversión.

El gobierno está actualmente esperando un debido informe de diligencia sobre el estado de cosas de la Corporación Hidroeléctrica Bakun y el proyecto hidroeléctrico Bakun por parte de una firma auditora internacional, Price Waterhouse, para decidir cómo implementar la toma de posesión.

Proyectos de desarrollo turísticos y de balnearios

En años recientes, el gobierno ha promovido agresivamente el desarrollo de la industria turística en el estado. El gobierno, como las com-

pañías privadas, ha construido muchos proyectos de infraestructura relacionados con el turismo, como hoteles, balnearios y canchas de golf para atraer a los turistas y otorgarles confort y esparcimiento. Muchos de estos proyectos han afectado negativamente a las comunidades indígenas y locales.

Los derechos consuetudinarios de los dayak han sido afectados nuevamente por diversos proyectos en los cuales la tierra fue apropiada por el estado y luego adjudicada a firmas privadas para construir hoteles y balnearios con canchas de golf, sin el consentimiento de las comunidades indígenas afectadas. Las regiones montañosas del estado están ahora designadas para balnearios lo cual es posible que origine una mayor explotación de los recursos forestales y la degradación ambiental.

Los estilos de vida dayak son tratados apenas como atracciones turísticas y sus "casas largas" son el objetivo de destinaciones turísticas. Los dayak sienten que su cultura es violada y abusada sistemáticamente. Los dayak de la mayoría de estas destinaciones turísticas sienten que son tratados como "objetos zoológicos" para los turistas. Existen también casos de prostitución entre las mujeres dayak.

El Proyecto de Balneario de los Altos de Borneo, en la División Kuching, está amenazando la subsistencia de más de 1.000 dayak bi*dayuh* de la aldea de Ana Rais. Los bidayuh han protestado contra la implementación del proyecto. El Balneario es de propiedad del cuñado del Primer Ministro de Malaysia. Los bidayuh han realizado una serie de bloqueos para detener el trabajo en marcha del balneario. Los agentes de inteligencia de la policía y por lo menos 30 efectivos del personal de policía patrullan el área todos los días.

Violaciones de derechos humanos

En el transcurso de los años, cientos de indígenas de Sarawak que se defienden y protestan contra la explotación maderera, las plantaciones y otras actividades destructivas desarrollistas que infringen sus derechos dentro de su tierra consuetudinaria, han sido brutalmente hostigados, atacados, intimidades, reprimidos y arrestados.

Los derechos de los nativos a su tierra y sus bosques y la defensa de su propiedad privada están reconocidos por la ley malaya. La Sec-

ción 97 del Código Penal establece que toda persona tiene derecho a defender su propiedad contra el robo, el daño o la intrusión criminal o contra los intentos de hacerlo. Pero en la práctica, estos derechos son simplemente ignorados por las compañías privadas. Por otro lado, las autoridades no sólo son muy indiferentes frente a sus dificultades, sino que los funcionarios de policía y del Departamento Forestal también han arrestado arbitrariamente y detenido a los indígenas que realizan cualquier forma de protesta, incluso si esas protestas fueron hechas dentro de los confines de su propia tierra y tienen derechos legítimos según la ley para realizar dichas formas de protestas.

En una serie de casos, los indígenas que fueron arrestados y presentados ante la justicia fueron encontrados inocentes. La justicia decidió que los indígenas estaban bloqueando/protestando en su propia tierra consuetudinaria, y la defensa de la propiedad de uno es reconocida por la ley. Ejemplo: Linusuru Ak Mumin & otros seis, Ajan Kiew & otros cuatro, 42 iban de Sunagi Bong, sólo para mencionar unos pocos ejemplos.

La situación de injusticia persiste hoy, las comunidades indígenas continúan enfrentando diversas amenazas provenientes de proyectos de desarrollo no-sustentables y arbitrarios y la agresión de las autoridades.

Los más expresivos activistas indígenas del estado son continuamente intimidados y se les niega sus privilegios como ciudadanos. Thomas Jalong, Jok Jau Evong, Garah Jalong y Raymond Abin tienen prohibido viajar al exterior porque sus pasaportes fueron confiscados. Una serie de activistas dayak están en la lista negra de las autoridades. Algunos abogados y representantes de ONGs malayas de Malaysia Peninsular fueron deportados de Sarawak y se les niega el acceso al estado. Si se las deja librada a su propia suerte, las comunidades indígenas de Sarawak serán efectiva y continuamente aisladas y reprimidas brutalmente por las autoridades.

Los orang asli de Malaysia peninsular

Los *orang asli* sumaban casi 100.000 individuos en 1997. Sin embargo, las estadísticas reveladas por el Director General del Departamen-

to de Asuntos Orang Asli (JHEO) muestran que el 80,8 por ciento de los orang asli viven por debajo del nivel de pobreza (comparado con un 8,5 por ciento a nivel nacional), de los cuales, el 49,9 por ciento está entre los muy pobres (comparado con el 2,5 por ciento a nivel nacional) (*The Star*, 19.2.1997). No obstante, en general, la política del gobierno hacia los orang asli sigue siendo la misma: modernizarlos e integrarlos a la sociedad mayoritaria. Lo que fue diferente en 1997 es cómo implementar esta política. A continuación se analizan dos de esas "estrategias".

Asimilación e islamización

En 1997, han escalado los programas *dakwah* (actividad misionera islámica) de las autoridades con respecto a los orang asli. El programa *dakwah* implica básicamente la implementación de una política de "discriminación positiva" con respecto a los orang asli que se convierten, con la entrega de beneficios materiales tanto individualmente como mediante proyectos de desarrollo.

Por ejemplo, el Departamento Religioso Islámico de Johor (JAIJ) anunció recientemente que hay que acelerar la misión musulmana (*dakwah*) entre los orang asli mediante un enfoque tipo multi-agencia (*Utusan Malaysia* 21.1.98). El programa, llamado "Memasyarakatkan Orang Asli" (Socializar a los orang asli) va a ser lanzado en abril de 1998 y será coordinado por el Departamento de Asuntos Orang Asli Johor (JHEO) con la asistencia del Departamento de Obras Públicas, el Departamento de Salud y la Oficina del Distrito.

Según su Director, el Departamento está "*siempre dispuesto a trabajar con cualquier agencia gubernamental que desee mejorar la situación social y religiosa de la comunidad de los orang asli que son musulmanes*". Agregó que se han dirigido a KEMAS (Departamento de Desarrollo Comunitario), que administra jardines de infantes en áreas orang asli, para sembrar semillas de la vida islámica a través del canto diario de canciones islámicas misioneras por parte de los niños pre-escolares orang asli. "*Tales esfuerzos asegurarán la diseminación del islam a una edad temprana, haciendo así más fácil propagar los valores islámicos entre los orang asli*", agregó (*Utusan Malaysia* 21.1.98).

El Concejo Religioso Islámico Selangor (MAIS) también expresó insatisfacción con el hecho de que sólo un 10 por ciento de los orang asli de Selangor se han convertido al islam. El *Ketua Penggerak Masyarakat* estatal (Oficial en Jefe de Desarrollo Comunitario) se quejó de que los misioneros de otras religiones eran más activos y repartían diversos regalos como almohadas y colchones (*Berita Harian* 11.2.98).

Los *Penggerak Masyarakat* (Oficiales de Desarrollo Comunitario) fueron introducidos por primera vez en 1991 -entrenados por el Departamento de Asuntos Religiosos y el JHEOA- como los principales agentes para lograr el objetivo de islamizar a los orang asli.

No obstante, a pesar de su obvio objetivo de convertir a todos los orang asli al islam, y a pesar de clasificar a los orang asli como malayos en las cifras oficiales, el JHEOA hace enormes esfuerzos para subrayar que la política con respecto a los orang asli es de integración, no de asimilación. Sin embargo, el tema de la asimilación orang asli no es solamente una preocupación del partido en el poder. El partido de oposición islámica, PAS, está de acuerdo con la opinión de que la islamización debería ser una estrategia para elevar a los orang asli de su estado de pobreza y que deberían ser asimilados a la sociedad como malayos. El parlamentario del PAS por Kubang Kerian, Mohamed Sabu, sugirió incluso que, "en vez de ser reconocidos como orang asli, deberían ser asimilados a la raza malaya. Su cultura debería ser integrada para que no sean más considerados como separados de los malayos (The Star 26.11.97).

"Gemelización" para la asimilación

En 1997, la política gubernamental de Asimilación/Islamización utilizó una nueva estrategia, la cual también afectó a los derechos territoriales orang asli. Esta estrategia es el programa de "Aldeas Gemelas Orang Asli-Malayas" lanzado en agosto de 1997. El objetivo de este programa es "originar integración y hermandad entre los orang asli y los malayos, e inculcar una cultura positiva y valores socioeconómicos positivos a los orang asli". El plan es hacer aldeas "gemelas" orang asli y malayas en 26 áreas. Sin embargo, el asunto es que, basándose en los pocos primeros proyectos, estas nuevas aldeas "gemelizadas" estarán ubicadas en territorios tradicionales orang asli.

En el caso de Kampung Bawong y los poblados circundantes Temiar en Lasah, Perak, se urbanizarán 100 lotes de tierra para 100 familias - 50 orang asli y 50 malayas. Cada lote, para el cual se prometieron títulos individuales, consistirá de cuatro acres de palmera oleaginosa, un acre de frutales (*dusuns*), y una casa de madera de 60 pies por 90. Sin embargo, el proyecto se realiza en el poblado orang asli ya existente y como tal esto es equivalente a que los orang asli renieguen a parte de sus territorios tradicionales para posibilitar el asentamiento malayo. De hecho, para la ceremonia de lanzamiento en Lasah, se arrasó *dusuns* y casas existentes orang asli para dar lugar al sitio para la ceremonia de lanzamiento, y para el nuevo proyecto.

Privatización de tierras orang asli

La privatización de territorios tradicionales orang asli fue otro nuevo programa del gobierno puesto en práctica en 1997. Esto está de acuerdo con la estrategia de 10 puntos de JHEOA para el desarrollo orang asli, "introducir la privatización como una herramienta para el desarrollo de las áreas orang asli".

Básicamente, tal privatización de asentamientos orang asli funciona haciendo que los orang asli firmen la renuncia a sus derechos a sus territorios tradicionales -bien con el JHEOA como apoderado o a través de un comité representativo de la comunidad (como un M*ajlis Adat* o Concejo Consuetudinario)- en favor de una corporacion privada, que puede, o no, ser una entidad orang asli. A cambio de los derechos a realizar actividades mineras, madereras y poseer la tierra a perpetuidad o bajo arrendamiento, la corporación entra en un acuerdo para proveer facilidades infraestructurales básicas y vivienda para los orang asli. En algunos casos, se incluye la promesa de parcelas con títulos individuales.

El primer plan de reagrupamiento privatizado orang asli del país fue lanzado en mayo de 1997 con la firma de un acuerdo entre el gobierno del estado y Taktik Sejati Sdn Bhd. Unos 600 orang asli de 149 familias de la aldeas de Lenek, Selai, Kemidak, Kudong y Tamok en el distrito de Segamat, en Johar, recibirían asistencia en términos de "desarrollo ecónomico, social, personal, mental y de apariencia [*sic*]".Un total de 748 hectáreas de tierra serían desarrolladas con ob-

jetivos agrícolas, habitacionales, infraestructurales y otros. Las restantes 290 hectáreas serán entregadas al estado para ser enajenadas a los orang asli una vez que el acuerdo finalice, después de 92 meses (*Berita Harian* 28-4-97, *New Straits Times* 28-4-97, *The Star* 28-4-97).

Sin embargo, los orang asli involucrados no estaban satisfechos con esta acción. Juki Sungkai, un joven líder orang asli cuestionó por qué productos avaluados en RM60 millones fueron concedidos a la Koperasi Daya Asli Johor Berhad (establecida principalmente por funcionarios de JHEOA) y no a la comunidad local. Sólo por esta razón, agregó Juki, "*el proyecto de reagrupamiento de Bekok debería ser detenido porque el proyecto fue otorgado a una compañía que no se ajusta a la Ley Orang Asli*" (*Utusan Malaysia* 10.6.97). Por otro lado, los orang asli mayores no estaban a favor del proyecto ya que el mismo significaría que tres de los poblados tendrían que trasladarse a los territorios tradicionales de Kemidak y Selai - es decir, a un área menor y sólo para beneficiarse de facilidades infraestructurales que ya están disfrutando en los poblados existentes.

Batin Keli Osman de Kampung Lenek cuestionó la razón, dada en un documento de trabajo de JHEOA durante una sesión informativa, de que la aldea estaba ubicada demasiado lejos en el interior y por eso necesitaba ser reubicada. "*El hecho real es*", dijo, "*que nuestra aldea está localizada cerca de la aldea malaya de Kampung Panca Jaya, a unos 6 kilómetros del camino principal. Tenemos un fácil acceso a escuelas, clínicas, comercios y otras cosas, a la vez que gozamos de la estabilidad económica que proviene de cultivar nuestra propia tierra*" (*New Straits Times* 12.11.97). Agregó que era sorprendente que dos otros *kampungs* ubicados a unos 64 kilómetros en el interior podían mantenerse, mientras que el suyo sería reubicado.

Antes, en el mismo año, las comunidades habían manifestado contra la compañía que realizaba actividades madereras en su tierra. El jefe de Kampung Tamok, Batin Aaer, dijo que aunque estaba contento por los esfuerzos del Ministro de Johor de llevar el desarrollo a los orang asli, creía que el gobierno del estado debería consultar primero a los orang asli antes de hacer planes para ellos. "*No somos la misma comunidad orang asli que hace 30 años, la cual estaba fija en sus costumbres primitivas y había rechazado el desarrollo*". Agregó, "*el*

643

gobierno no debería pensar que los orang asli son personas estúpidas que no comprenden lo que es bueno para ellos". (New Straits Times 27.1.97).

Sin embargo, el Gobierno del Estado de Johor declaró que *"no sucumbiría ante los antojos de grupos aislados orang asli que rechazaban proyectos dirigidos a brindar una mayor seguridad para ellos"*. La Presidenta del Comité de Unidad Estatal y Bienestar Social, Halimah Mohd Siddique, dijo que era prerrogativa del gobierno estatal brindar lo mejor a la comunidad orang asli y el estado realizaría fervientemente proyectos para elevar su infraestructura, incluyendo la organización y la reestructuración de sus aldeas. *"Nuestro esfuerzo es institucionalizarlos y hacerlos parte del proceso de desarrollo del estado"*, agregó ella (*New Straits Times* 24.11.97).

Mientras tanto en Kampung Buluh Nipis, en Pahang, 26 orang asli fueron arrestados y detenidos durante una noche por negarse a dispersarse cuando la policía les dio instrucción de que lo hicieran. Habían bloqueado el movimiento de los camiones madereros que salían de su aldea en procura de una mejor compensación por el talado de troncos en sus territorios tradicionales. La concesión maderera había sido otorgada por el estado como un preludio para convertir al área talada en área de reasentamiento para dos comunidades orang asli.

Reconocimiento de derechos a los recursos

También, en Johor, hubo una importante decisión de la suprema corte en favor de los orang asli. El asunto implicaba la decisión del Gobierno del Estado de Johor de vender derechos al agua a Singapur en 1993. En ese momento, el Director Estatal de JHEOA había sostenido que la represa que iba a construirse no afectaría la subsistencia de los orang asli ya que *"ellos ya no dependen de la caza tradicional para vivir"*. Y según el informe de la Evaluación de Impacto Ambiental (EIA), el lugar del embalse de Sungei Linggiu estaba completamente deshabitado.

No obstante, los 225 *jakuns* se mantuvieron firmes y amenazaron con tomar una acción legal. El JHEOA, reconociendo finalmente su presencia, propuso una compensación total de una única suma de RM 560.000,00. Esto significa RM 2.488,00 por persona. Entretanto, el

Gobierno de Singapur había firmado un contrato para pagar al Gobierno de Johor RM 320 millones por el agua. Los orang asli presentaron el caso a la justicia y después de tres años, el juez sentenció en su favor. En 1996, el gobierno del estado fue ordenado a pagar a los orang asli una compensación total de RM 26,5 millones por concepto de pérdidas de ingresos durante los próximos 25 años.

Sin embargo, debe destacarse que la sentencia es por pérdidas de ingreso debido a la pérdida de acceso a la base de recursos tradicionales, y *no* por la pérdida de sus territorios tradicionales. Por lo tanto, aunque los derechos orang asli a los recursos parecen ser reconocidos por la justicia, sus derechos a sus tierras tradicionales no han logrado un reconocimiento similar.

TAILANDIA

Durante el transcurso de las últimas décadas han sucedido muchos acontecimientos en Tailandia que dificultan y debilitan los derechos de los pueblos indígenas que se encuentran en todo el país, pero predominantemente en el norte. Las dificultades enfrentadas en todo el país, provenientes del mal manejo del medio ambiente, vino a descansar sobre los hombros de los pueblos tribales ya que ahora habitan las últimas zonas restantes de tierra forestal. La presunción es que las pequeñas tierras forestadas deben ser mantenidas libres de toda habitación humana, y por cierto, que los ocupantes humanos deben ser trasladados y las tierras vírgenes mantenidas en un estado pristino y aislado para ser usadas como excursiones diarias para los ricos. Pero es cuestionable que esta sea la estrategia de conservación más efectiva que se pueda adoptar. Es fácil demostrar que esta filosofía occidental de la conservación no se aplica a Tailandia, que lejos de proteger los valiosos y vulnerables recursos naturales destruye un patrimonio cultural invalorable y elimina de los delicados ecosistemas las estrategias de manejo de recursos de los pueblos que han protegido los bosques durante siglos.

El desarrollo económico ha sido un tema central del gobierno Thai desde 1961, es una forma de desarrollo que insistía en el aumento de la producción agrícola para la exportación, descartando la naturaleza

645

tradicionalmente sustentable de la agricultura Thai. Esto significó inmediatamente que la tierra cultivada en Tailandia aumentó dramáticamente, sumándose a los ya serios problemas de deforestación. Vale la pena destacar en este momento que el nuevo énfasis en la producción excedente no tuvo un efecto tan grande en las áreas pobladas por tribus montañesas. En Mae Hong Son, donde la población tribal montañesa es estimada en un 80%, la cobertura forestal es significativamente superior a la de las provincias comparables con la misma. El daño ambiental no podía dejar de combatirse y entonces el gobierno comenzó a prestar atención al problema. En 1992, el Gabinete declaró que toda la tierra tenía que ser dividida en zonas, en las cuales los usos de la tierra serían controlados. Se establecieron tres clasificaciones, identificando áreas económicas, agrícolas y de conservación.

En el contexto de esta declaración había procedimientos para aumentar el área de tierra de conservación, ya que el objetivo de 88 millones de ra*i* (14,08 millones de hectáreas) no había sido cumplido. Estos procedimientos ilustran más claramente que cualquier otra cosa la imagen occidental de la conservación que ha sido adoptada por el Departamento Real Thai de Forestería. Estos procedimientos son expuestos a continuación tal como aparecen en la declaración del Gabinete de 1992:

- Una vez que la tierra haya sido clasificada como tierra de conservación todas las comunidades ya residentes deben ser trasladadas, si es posible, fuera del área delicada.
- Plantar árboles inmediatamente en todas las áreas de las tierras evacuadas.
- Si la reubicación inmediata no es posible, el gobierno toma el control de toda la tierra usada por la comunidad y controla estrictamente cualquier actividad en esa tierra. La comunidad debe ser convencida de abandonar la tierra y cuando esto se logre se plantarán árboles inmediatamente.

Este sistema de regeneración de la tierra muestra el punto de vista del gobierno sobre la conservación de la tierra, es decir, que consiste de bosques pristinos carentes de toda habitación humana. Pero vale la

646

pena examinar más de cerca la realidad de los usos de la tierra en estas áreas. El área de conservación, establecida en 88 millones de *rai* tiene actualmente a lo sumo 68 millones, ya que 20 millones de *rai* contienen concesiones mineras otorgadas por el gobierno, el mismo gobierno que en realidad ha *quitado* títulos a la tierra a comunidades muy antiguas en las áreas de conservación para facilitar la declaración y aumentar la cantidad de tierra de conservación.

Amenazados por la reubicación: aldea lahu en la provincia de Chiang Mai, norte de Tailandia (Foto: Christian Erni).

El gobierno no sólo ha otorgado concesiones mineras en las clases de tierra proclamadas ecológicamente críticas sino que, además, el talado, que el gobierno sancionó y que tuvo lugar en Tailandia durante los 30 últimos años de creciente prosperidad material, hoy puede ser culpado por el devastante daño ambiental de Tailandia, un daño que culminó con las mortales inundaciones del sur del Tailandia a comienzos de la década del 90. Esto fue lo que tuvo que suceder antes de que el

647

gobierno detuviera el talado legal. No obstante, a pesar de la obvia culpabilidad del gobierno en lo que respecta a los problemas del medio ambiente como este, la campaña ha consistido en ubicar la culpa en los pueblos tribales del norte.

La respuesta de los pueblos

El resultado más claro es el sorprendente crecimiento de las organizaciones de los pueblos, la gente se ha unido en organizaciones de las tierras altas, organizaciones de las tierras bajas y han combinado sus voces en redes como la Red de los Agricultores del Norte, para protestar contra las decisiones del gobierno que les estaban amenazando.

La bien conocida Asamblea de los Pobres presenció una enorme afluencia de gente determinada a presentar al gobierno sus historias y la verdad sobre la situación del norte de Tailandia. Este apoyo masivo a los pobres del norte tuvo dos respuestas importantes, la primera fue la reunión del gobierno con delegados el 17 y el 29 de abril de 1997, para redactar una Ley Forestal Comunitaria que devolvería a las aldeas el derecho al manejo de los recursos de los bosques circundantes. Estas reuniones fueron celebradas en la época en que Chavalit Yongchaiyudh era el Primer Ministro. Con el subsiguiente cambio de Gabinete, el proceso se enlenteció. El segundo resultado aparente fue una fuerte reacción del gobierno y las ONG verdes contra las organizaciones de los pueblos. El gobierno ha usado las comunidades tribales montañesas como chivos expiatorios de una serie de problemas, alegatos que cuando son examinados en detalle son difíciles de creer.

Sin embargo, primeramente deberíamos examinar los logros de las dos reuniones del 17 y 29 de abril. El proyecto de ley diseñado por el Gabinete fue debatido por las ONG verdes, los delegados de las organizaciones de los pueblos, y el gobierno, y resultó en una solución aceptable, si bien no apreciada por todos. Se estableció un comité para determinar la legitimidad de las reivindicaciones de propiedad de la tierra y se aceptó que si se podía probar la ocupación antes de la declaración de 1993 de "tierra de conservación" entonces se otorgarían derechos a la tierra. También se celebró otra reunión el 22 de abril, a la cual no fueron invitados los delegados de las organizaciones de los

648

pueblos. Fue en esta reunión en que se concibieron los procedimientos para la delineación y titulación de la tierra. El cartografiado sería realizado por el ejército utilizando las técnicas satelitales de cartografiado y el Departamento Real Thai de Forestería fue hecho responsable del proceso de delineación. Surgieron dificultades en el proceso de delineación, el cartografiado del ejército fue tosco en el mejor de los casos, y en algunos casos las aldeas ni siquiera aparecían en los mapas dibujados.

Los acuerdos logrados en estas dos reuniones estuvieron en peligro muchas veces, muy recientemente a causa de una campaña de difamación realizada por el gobierno y las ONG verdes, muchas establecidas por miembros retirados del ejército Thai y el Departamento Thai de Forestería. Las alianzas entre el gobierno y las ONG de este tipo se han cuadruplicado desde el aumento de la popularidad de las organizaciones de los pueblos de 4 a 25. Esto ha significado que como las ONG verdes apoyan el punto de vista de bosques carentes de habitación humana, el fraccionalismo ha aparecido en la comunidad de ONG.

Este fraccionalismo ha hecho mucho más fácil el trabajo sucio de culpar a las tribus montañesas del daño ambiental. En el área del Parque Nacional Doi Inthanon, los incendios que estallaron recientemente fueron inmediatamente considerados obra de las tribus montañesas hmo*ng* y *karen* que viven allí. A la consiguiente batalla para extinguir los incendios asistieron miles de hmong y karen todos los días y el cuidadoso control de asegurar que ningún otro incendio pudiera quedar fuera de control fue asumido por estas tribus. Sin embargo, las acciones de estos pueblos pasó desapercibida en contraste con las similares acciones de un pequeño grupo de habitantes de las tierras bajas que también ayudaron a combatir los incendios. Este tipo de información unilateral es increíblemente dañino para la posición de las tribus montañesas frente a la opinión pública y esta posición, este respeto, es esencial si se quiere lograr cambios a nivel político.

El incidente de Doi Inthanon no es inusual. El bien publicitado desastre maderero de Salaween y más recientemente la reacción frente a la creciente deforestación en Chiang Dao, en la provincia de Chiang Mai, son también claros ejemplos de la información unilateral intencionalmente desorientadora sobre los problemas del medio ambiente

en el norte. Sin embargo, recientemente ha surgido un reconocimiento en el sector público de la naturaleza real de estos problemas. Cada vez más, la gente está viendo los alegatos de "chivo expiatorio" como lo que son y el apoyo a las organizaciones de los pueblos está otra vez en aumento.

CAMBOYA

Aunque no existen estadísticas confiables debido a décadas de conflictos y guerras, y los resultados del censo de marzo de 1998, el primero de 30 años en Camboya todavía no han sido publicados, el Gobierno Real de Camboya informó de un número total de 309.254 individuos pertenecientes a minorías étnicas, reunidas en 39 grupos y que constituyen el 3,6% de la población de Camboya. De estos, los pueblos indígenas, también referidos como pueblos de las tierras altas, khmer loeu, tribus montañesas o montañeses, constituyen menos de un tercio, o sea, un 1% de la población de Camboya. Viven principalmente en la provincias del noreste de Ratanakiri, Mandulkiri, Stoeung Tren y Cratie, pero también en Pursat, Koh Kong, Kompong Thom, Kampot, Preah Vihear y Kompong Speu. Los principales pueblos indígenas del noreste son los *tampuan, kreung, jarai, brao, kachak, kaveth, lun, phnong, ide, stieng, thmon, kraol, rahong, kuy, tamoan, mil y khaonje*. Estas comunidades de pueblos indígenas y sus miembros, su identidad, sus culturas y su estilo de vida tradicional, están seriamente en peligro.

En la provincia nororiental de Ratanakiri, los pueblos indígenas constituyen un 85% de la población de 83.000 personas. La provincia tenia el año pasado una cobertura forestal del 70-80%, la cual, no obstante, está disminuyendo rápidamente a causa del corte de árboles ilegal y "anárquico" a partir del violento golpe de estado de julio de 1997. Aunque este hecho no es considerado por el Gobierno, los bosques de Ratanakiri, así como los de Stoeung Treng, Kratie y Mondulkiri son los bosques más densamente poblados del país. Los pueblos indígenas han vivido allí desde tiempos inmemoriales y dependen en gran medida del bosque para su subsistencia, tanto para practicar la agricultura "swidden" como para recoger los productos forestales (ex-

tracción limitada de madera para la construcción local, leña, rattan, bambú, frutos, verduras, nueces, raíces, hongos, resina para la iluminación). Todas las familias indígenas dependen de estos productos forestales para la supervivencia y sólo el 30% de las mismas tiene algún integrante asalariado. La agricultura "swidden", que es la más importante fuente de subsistencia (pero insuficiente en sí misma), es principalmente practicada en bosques secundarios más jóvenes. La recolección de productos forestales se realiza más bien en áreas de bosques primarios y no daña a los árboles más viejos y valiosos, por razones espirituales.

El acceso a la tierra forestal tanto para la agricultura como para los productos forestales es crucial para las comunidades indígenas. La imposición de limitaciones a tal acceso y la explotación no sustentable de los bosques violan sus derechos humanos, como el derecho a la alimentación, una vivienda adecuada, un medio ambiente saludable, la cultura y el trabajo. Además, los derechos básicos a la vida y a la seguridad no son garantizados a los miembros de los grupos indígenas, quienes se enfrentan a la intimidación y los abusos de las compañías madereras y sus mecanismos de seguridad, parece no haber acceso a la justicia (la cual al menos no es percibida por los grupos indígenas como una potencial proveedora de protección contra los abusos), y la supervivencia y la identidad y la cultura de varios grupos están en peligro.

Pero los bosques de Ratanakiri están seriamente en peligro. La tala de árboles ilegal, principalmente por el ejército y la policía nacionales, como también por individuos vietnameses, está en aumento y por consiguiente la amenaza al estilo tradicional de vida de los pueblos indígenas. Se ha observado a los madereros pagar dinero a individuos aldeanos para que los lleven a donde están las maderas valiosas. Pagan entre 2.500 y 10.000 riel por árbol (una parte infinitesimalmente pequeña del valor internacional de mercado), no por la compra, sino para mantenerlos en silencio. En otros casos, los madereros muestran papeles falsos -pero realmente firmados por el jefe del distrito- a los aldeanos, que los autorizan a cortar la valiosa madera. En torno a Banglung existe algo de talado, pero al este hay un intenso movimiento a través de la frontera a Vietnam. La tala ilegal también es realizada en

651

algunas de las 12 áreas provinciales (no nacionales) protegidas, como en el Parque Nacional Virachey, en el límite con Laos y Vietnam, y en el Santuario de la Fauna Lumphat. Los aserraderos locales compran árboles a los jefes de distrito y otros funcionarios.

Un tema muy importante es el actual reemplazo de la antes inexplotada concesión maderera de 1.4 millones de hectáreas que pertenecía al consorcio financiero indonesio Macro-Panin. Comprende toda la región central montañosa de Ratanakiri en donde vive la mayoría de los grupos indígenas, así como partes de Kratie y Stoeung Treng. Según el Gobernador, ni Macro-Panin ni ninguna otra de las grandes concesiones forestales otorgadas por el Gobierno, son concesiones legales. Las Autoridades Provinciales y la población local nunca fueron informadas oficialmente de las mismas, nunca han sido consultadas y las evaluaciones de los impactos sociales y ambientales nunca se hicieron. La única concesión legal que él conoce en Ratanakiri es la plantación de palmera oleaginosa en O Yadao. No obstante, existe un bien publicitado acuerdo entre la Provincia y Valai, una compañía maderera vietnamesa, que permitió a esta firma exportar troncos por un mes, entre el 5 y el 31 de diciembre de 1997, y no existen garantías de que toda la madera tomada fuera madera ya cortada. El 16 de diciembre de 1997, el Gobernador organizó una reunión con las ONGs que habían expresado su preocupación por los camiones madereros, y el hecho de que fueron confiscadas una cámara y una película del personal de CARERE, (Programa Camboyano de Rehabilitación y Reintegración perteneciente al Programa de los Pueblos de las Tierras Altas de UNPD), que estaba filmando partes de la operación maderera. Durante la reunión, el Gobernador se mostró muy abierto, e informó a las ONGs que habían habido dos viejos acuerdos y este nuevo, y que proveía dinero para la reparación de 150 km de caminos en Ratanakiri (desde Banlung hasta cada distrito), nueve puestos fronterizos, una casa de huéspedes para maestros *khmer* y trabajadores de la salud, y nueve transportes terrestres para los Gobernadores y algunos jefes de distrito.

Según el Gobernador, la enorme concesión de Macro-Panin fue acordada por ambos Primeros Ministros, y luego se forzó la aprobación del Ministerio de Agricultura, el Jefe del Departamento de Forestería y el CDC. Presuntamente, cada uno de los primeros ministros,

652

Ranaridh y Hun Sen, recibió un millón de dólares por este negociado. El ex Ministro de Finanzas, Sam Rainsy, nunca tuvo acceso a las negociaciones o a los proyectos y tampoco Kem Sokha, presidente de la comisión de derechos humanos de la Asamblea Nacional de Camboya. Mok Mareth, el Ministro de Medio Ambiente, tiene también serias objeciones contra la Concesión Macro-Panin porque parte de la misma se sobrepone a áreas nacionales protegidas (Santuario de la Fauna Viracheay y Parque Nacional Lumphat).

Un estudio recientemente realizado por EEPSEA, "Un análisis económico de las opciones de uso de la tierra forestal tropical, Provincia de Ratanakiri, Camboya", calcula el valor de mercado de los productos forestales no-madereros comparado con el valor de la extracción maderera. La sorprendente conclusión es que los productos forestales no-madereros valen más del doble que la madera (1 hectárea durante 90 años: PTNM = 3.922 US$/madera = 1.697 US$), y eso sin contar los costos a largo plazo del talado, es decir, la pérdida de vertientes y diversidad biológica, e incluso el cambio climático en caso de una limpieza seria de la vegetación. La actual compensación pagada por los madereros vale menos que el 1% del valor de los productos forestales no-madereros por hectárea. El problema es que las comunidades indígenas locales están en una posición muy débil para negociar, son muy vulnerables económicamente y no tienen un acceso real a la protección contra la intimidación o los abusos.

Otro costo no contabilizado para el país es que la explotación intensa puede conducir a la inseguridad local y a la rebelión, tal como ha sucedido con las comunidades indígenas de Palawan y Madagascar. EEPSEA recomienda la exclusión de las tierras forestales consuetudinarias de toda concesión comercial actual y futura, el congelamiento de todas las actividades comerciales, el reconocimiento legal de la Asociación para la Conservación Forestal, que se otorgue estatus legal a las tierras forestales consuetudinarias, una revisión abierta y comprehensiva del plan de manejo de Macro-Panin y la elaboración de un plan de uso de la tierra comprehensivo para el área, que incluya SIA y EIA.

En Camboya, la única ONG que realmente monitorea las operaciones madereras es Global Witness, una organización de tres personas,

notablemente efectiva, con sede en Londres y que viaja regularmente a Camboya.

De acuerdo con las ONGs que trabajan con los pueblos indígenas del área, puede ser irracional luchar por la preservación de toda Ratanakiri tal como está la situación, pero debería ser posible cartografiar los límites tradicionales de las aldeas, incluyendo toda la tierra y los bosques usados tradicionalmente, e imponer que cualquiera que desee usar la tierra dentro de estos límites debe cumplir con las reglas y tradiciones de la aldea. No obstante, el reconocimiento de los derechos tradicionales de uso de la tierra no implica necesariamente el establecimiento de la propiedad de la tierra. Los límites tradicionales pueden ser usados para indicar unidades de planificación, en las cuales los intereses gubernamentales podrían ser vinculados con los de los habitantes locales, y evitar el riesgo de que individuos vendan sus tierras en negocios desventajosos con extraños. Las tierras y bosques podrían entonces ser manejados conjuntamente por la comunidad local y el Gobierno.

El trabajo de la comunidad de ONGs está, por lo tanto, centralizado en la forestería comunitaria. En un caso, seis aldeas establecieron una Asociación para la Conservación del Bosque Comunal y propusieron una serie de Reglamentaciones a las Autoridades Provinciales para proteger su bosque, las cuales están siendo consideradas. El Jefe de Forestería, el Ministro de Medio Ambiente y el Gobernador de Ratanakiri apoyan firmemente este concepto de forestería comunitaria, en el cual las comunidades locales -en coordinación con las autoridades provinciales- tendrían la responsabilidad sobre la conservación, el manejo y el uso sustentable de sus áreas boscosas. Una propuesta relativa a la explotación forestal podría contener el concepto de madera catalogada o certificada, garantizando que se usaron prácticas madereras sustentables (y concentrarse más en mercados madereros que son sensibles a tal catalogación), el concepto de concesiones manejadas comunitariamente, con volúmenes bajos, un manejo estricto y un uso eficiente optimado, y el concepto del reparto de los beneficios.

LAOS

El Gobierno de la República Democrática Popular de Lao, está planeando una abolición gradual de la agricultura "swidden" (de limpieza y quema, rotativa) en el país. Durante la conferencia forestal nacional que tuvo lugar del 1 al 3 de julio de 1997, se decidió que para el año 1998, el área de la agricultura "swidden" sería reducida en 25.000 hectáreas. Las estimaciones sobre el área total de la agricultura "swidden" varían entre 160.000 y 300.000 hectáreas, y la cantidad de familias dependientes de la misma entre 130.000 y 280.000.

Las nuevas directivas parecen haber sido interpretadas con exceso de celo en las provincias. Durante un viaje de varios días en la parte norte del país, se pudo detectar sólo unos pocos "swidden" quemados recientemente en una extensión de trescientos a cuatrocientos kilómetros. Algunos de los caminos transitados se encontraban a más de 2.000 metros de altura, y permitían ver amplias zonas de tierra. Las actividades agrícolas "swidden" se han detenido completamente en todas partes. Los agricultores del pueblo k*ammu*, en una aldea donde no llegan los caminos, dijeron que habían sido compelidos a detener el cultivo del arroz de tierras altas, y a cultivar solamente arroz en cáscara en las tierras bajas irrigadas. Los kammu y otros pueblos indígenas de Laos no tienen tradición de cultivo de arroz irrigado, y tradicionalmente no disponen de bueyes o búfalos para arar. Aunque algunas personas de la aldea habían tenido acceso a los arrozales de las tierras bajas desde los años 70, era evidente que los agricultores todavía no habían aprendido las técnicas de cría de ganado, o el arte de cultivar el arroz. Tenían aprensión sobre el futuro: ¿serán capaces de sobrevivir sólo con sus arrozales de las tierras bajas?

Aunque no se pudo hacer una inspección más amplia, las observaciones indican que estos agricultores kammu no constituyen la excepción. En vez de un gradual cambio al cultivo arrocero de tierras bajas, las autoridades provinciales parecen estar implementando una virtual prohibición contra la agricultura "swidden". Otro observador, quien había sido testigo de la situación en las partes sur del país, confirmó esta impresión. Esto es sumamente alarmante ya que amenaza la seguridad alimenticia, pone en peligro el frágil equilibrio étnico del país, y

quizá pone en riesgo la estabilidad ecológica de toda la cuenca del Mekong. No se sabe exactamente cuánto grano cosechado en el país crece en tierras "swidden", pero se ha mencionado una cifra del 15 por ciento. En un país que apenas se alimenta a sí mismo, y con una población que está apenas por encima de los mínimos requisitos de calorías, sacar un quince por ciento de la producción puede asumir consecuencias perniciosas. Una frágil seguridad alimenticia se puede transformar rápidamente en una gran escasez de alimentos. Como siempre, una menor disponibilidad de granos es probable que dañe más a los menos privilegiados. En Laos, es probable que sean los grupos que sufren de escasez de tierras que se encuentran tanto en las tierras bajas, como en gran medida en las tierras altas, donde estas políticas se sumarán a una continua disminución de recursos de la tierra y del acceso a los mismos.

Laos es uno de los pocos países del mundo en el cual la población dominante está en minoría. Sólo un cuarenta por ciento de la población pertenece a los grupos de habla lao, que habitan principalmente los fondos de los valles de las tierras bajas. El pueblo lao es tradicional mente cultivador de arroz y ganadero. Aunque también tiene una tradición de cultivar arroz de montaña, es probable que se vea menos perjudicado que otros grupos. Paradójicamente, las llamadas minorías, los pueblos de las tierras altas, constituyen la mayoría de la población del país, pero están divididos en una cantidad desconocida de grupos. Las cifras que circulan son de cuarenta a sesenta grupos étnicos diferentes, pero nadie ha realizado un atlas etnográfico confiable del país.

Las autoridades dividen al pueblo lao en tres grupos principales. Los lao de las tierras bajas (*lao lum*) comprenden a varios grupos pequeños además de la "mayoría" de habla lao. Los lao del interior (*lao theung*) también consisten de varios grupos, de los cuales el de habla kammu es el mayor. Los lao de las tierras altas (*lao sung*) constituyen la categoria final, de la cual los *hmong* son los más conocidos. Tanto los lao theung como los lao sung dependen tradicionalmente de la agricultura "swidden" para asegurar su subsistencia alimenticia. Aunque la guerra Indo-China ocasionó una reubicación masiva de la población, y aunque las políticas de desarrollo económico y reasentamiento han originado una corriente migratoria hacia las tierras bajas, cien-

656

tos de miles de agricultores lao, fundamentalmente pueblos indígenas de las montañas, siguen dependiendo de la agricultura "swidden" como parte de sus necesidades alimenticias. Estos son perjudicados por la actual política y como pertenecen a las minorías, la política amenaza el frágil equilibrio étnico del país. Actualmente, parece que los agricultores de la montaña han obedecido los dictados del régimen, pero cuando se enfrenten a las dificultades de alimentar a sus familias, no es probable que su docilidad dure.

Se han presentado teorías según las cuales la agricultura "swidden" en las áreas forestadas de la cuenca del Mekong son esenciales para la estabilidad macro-ecológica de toda la región. Como es bien conocido, un bosque en clímax ecológico es un universo ecológico autosuficiente. No exporta materias nutritivas corriente abajo. Durante cientos de años, un cierto porcentaje de las áreas forestadas de la región ha sido trabajado en forma "swidden". La caída de las lluvias y el flujo de agua a través de estas áreas llevan una cierta cantidad de material de erosión, el cual ha sido un aporte nutritivo esencial para la agricultura de corriente abajo. Si este aporte es completamente bloqueado por una prohibición exitosa de la agricultura "swidden", es probable que el cultivo arrocero de las tierras bajas se vea afectado. Entonces, puede ser que la consecuencia a largo plazo de una política excesivamente celosa relativa a la agricultura "swidden" sea una disminución de las cosechas y un aumento de los requerimientos de fertilizantes químicos. Por lo tanto, existen razones para preocuparse del desarrollo político de Laos. La inseguridad alimenticia, los conflictos étnicos y las alteraciones ecológicas pueden constituirse en las consecuencias no intencionadas del presente con relación a la agricultura "swidden". Sobran las razones para que el entorno mundial reaccione.

NAGALAND

Diez meses de paz en 33 años

El año pasado la India tomó una decisión transformadora de entrar en negociaciones políticas incondicionales con el Concejo Socialista Nacional de Nagaland (NSCN) que dirige al movimiento nacional de resistencia *naga*. El anuncio de esta decisión, en el mes de marzo, fue

seguido por un acuerdo de cese el fuego a partir del 1 de agosto de 1997 entre la India y el NSCN. Pero como la India cambia su gobierno frecuentemente ha habido muy poco progreso, si es que ha habido alguno, en dirección a la apertura de las conversaciones formales. La reciente instalación del gobierno de coalición liderado por el partido BJP en la India tampoco ha aportado muchas esperanzas para el proceso de paz, dada la historia de militancia hindú del BJP. En realidad, existen aprehensiones de que el compromiso de la India a una solución negociada podría ser descarrilado.

Los nagas son un pueblo mongoloide que vive en la región montañosa del Asia suroriental dividido por la actual frontera indo-birmana. Su estilo de vida altamente igualitario y comunitario, lo separa de las sociedades hindúes estratificadas en castas que están en su vecindad. La ocupación y partición del dominio ancestral de los nagas es un legado de la política británica del siglo XIX. Los nagas sostienen que el continuo sometimiento de sus territorios viola el derecho internacional y los términos del Acuerdo de Nueve Puntos/Acuerdo Hydari realizado en el momento de la propia independencia de la India.

Desde comienzos de los años 50, el gobierno de la India ha tratado de destruir, por medios militares, la base espiritual y material de la independencia de los pueblos naga, a un alto costo de vidas humanas y del medio ambiente. El único intento de negociar una solución pacífica, comenzó en 1964 y se interrumpió en 1967 porque la India se negó a moverse de su auto-asignado derecho de "extender su soberanía sobre Nagaland".

> "Es obvio que el territorio Naga en el este de Assam es demasiado pequeño para existir por sí mismo política y económicamente. Está ubicado entre dos países, India y China, y parte del mismo consiste de gente bastante atrasada que requiere una ayuda considerable." Escrito por el líder de la India, Nehru, a Sakhrie, Secretario del Concejo Nacional Naga en agosto de 1946.

Poco después de que la India se independizara en 1947, los mismos líderes de la India se volcaron de este tipo de expresiones pre-independentistas de "ayudar a los nagas" al ejército, para ocupar por la

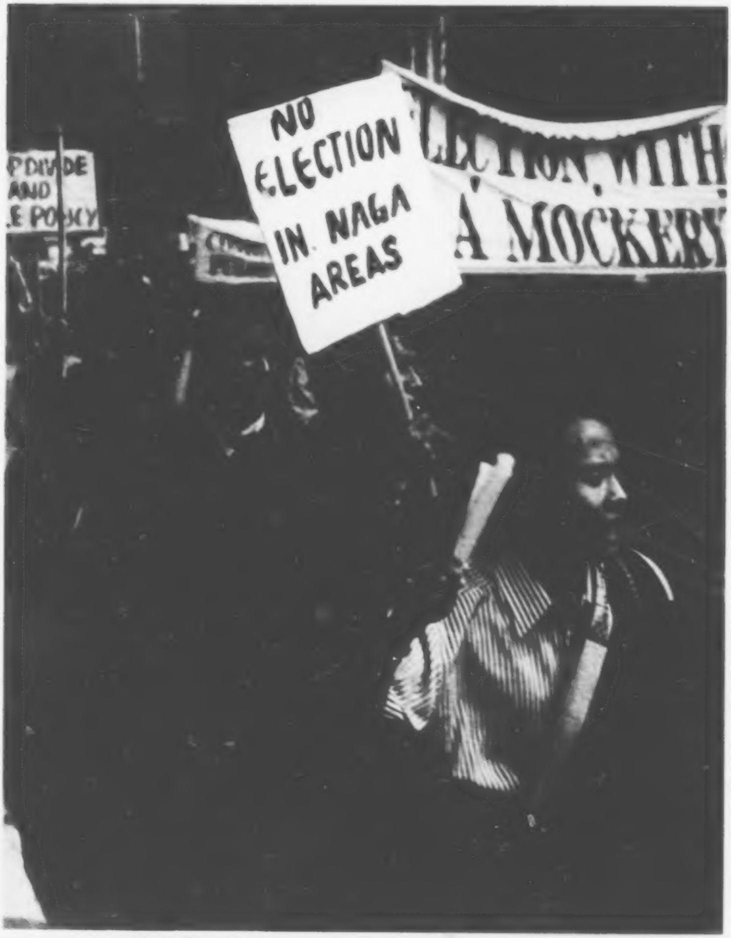
fuerza Nagaland. Hacia 1972, la India cambió la cuestión naga del Ministerio de Relaciones Exteriores al Ministerio del Interior. Desde entonces, la India ha insistido que no habrá conversaciones de paz a menos que los nagas acepten primero la Constitución de la India.

Aunque muy golpeado y aislado por la India y Birmania del resto del mundo, el pequeño pueblo naga, de apenas 3 millones de personas, se negó a rendirse. En cambio, intensificaron el movimiento de resistencia. En la mayor parte de Nagaland, la situación se tornó tan sangrienta que no pasó una semana sin combates entre las fuerzas de ocupación de la India y las guerrillas naga o el asesinato por parte pistoleros que actúan junto con los servicios de inteligencia de la India. Sólo en el estado de Nagaland, de 566 personas arrestadas por las fuerzas armadas de la India durante abril 4,95-marzo22, 96, 91 personas siguen "desaparecidas" (como se informó en el periódico regional N*agaland Post*, marzo 23, 96).

Pero parece que incluso para el ejército de la India las cosas fueron demasiado lejos y durante demasiado tiempo. Se ha informado sobre indicios de que el ejército de la India, cansado y en tensión, enloqueció en muchas ocasiones: bombardeando con morteros a un pueblo entero, como Kohima, la capital del estado de Nagaland, el 5 de marzo de 1995 por parte de 420 oficiales y soldados del 16 de Fusileros de Rashtriya; disparando indiscriminadamente e incendiando el moderno centro comercial de Mokochung, en el estado de Nagaland, por parte del regimiento 16 de Infantería Ligera Maratha el 27 de diciembre de 1994 (informado en N*agaland Post*, ediciones del 28, 29, 30 de diciembre de 1994 y marzo 6 y 7 de 1995); o la masacre de niños y mujeres inocentes, como en la aldea naga de Nungleiband, donde el regimiento 1 JAKLI de la India del Puesto de Loukoipat mató a 9 niños y mujeres en la mañana del 15 de octubre de 1997 y más de 100 aldeanos "desaparecieron". El Comandante, Cnel. Anil Gairola, se mató a sí mismo el día siguiente cuando su arma se "disparó por accidente", como lo informó *The Imphal Free Press*, del 17,18 de octubre de 1997.

En este contexto, el anuncio de 1997 de conversaciones de paz fue considerado como el acontecimiento más significativo hasta la fecha para la paz en la región. La decisión del gobierno de la India sobre las conversaciones de paz ha sido apoyada por todos los principales parti-

dos políticos. Al no establecer ninguna condición previa para las conversaciones, y al acordar que las mismas podían tener lugar en un país



Manifestación de protesta de estudiantes naga contra las elecciones en las áreas naga. Delhi, 14 de febrero de 1997 (Foto: Christian Erni).

660

neutral, el gobierno de la India parece haber aceptado la necesidad de negociar con los nagas en una base de nación a nación.

El público naga aprovechó inmediatamente la rara oportunidad de paz para expresar su fuerte apoyo al movimiento nacional de resistencia a través de reuniones públicas convocadas por la Cumbre Hoho (la Federación de Concejos Tribales Tradicionales). Hizo un llamado a la India para que demostrara su genuino compromiso con el proceso de paz y no impusiera elecciones de la India en Nagaland durante las conversaciones de paz. El público naga, a través de la Cumbre Hoho, expresó que participar en una elección organizada por la India mientras que el proceso de paz está en marcha sólo sirve para socavar la lucha por la independencia. La medida en que estas reuniones fueron representativas de la opinión pública naga fue puesta en claro suficientemente cuando menos del 7% de los votantes de Nagaland se presentaron a votar en las elecciones que la India celebró en febrero-marzo.

En los meses próximos, la comunidad internacional estará observando si la democracia más grande, la India, responderá a la cuestión naga con respeto por la opinión expresada por el público naga o usará su poderío militar para continuar la ocupación forzosa de Nagaland y prueba que la democracia más grande es una farsa.

> "Simplemente porque antes estábamos encadenados juntos en nuestra esclavitud, esperamos, que ese periodo de nuestra desgracia no sea el punto importante de la secuencia histórica para que nuestro pueblo riña en cualquier momento." Phizo, líder naga, en una carta escrita al Gobernador General de la India, desde la cárcel en noviembre de 1948.

661

Paises/regiones tratadas en ésta publicación: Bangladesh (Chittagong Hill Tracts), India

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662

ASIA DEL SUR

CHITTAGONG HILL TRACTS

1997 fue un año pleno de acontecimientos para Chittagong Hill Tracts (CHT), en el sureste de Bangladesh. El 2 de diciembre de 1997 se firmó un acuerdo de paz que finalizó dos décadas de un conflicto étnico que ha sacrificado miles de vidas.

En Hill Tracts viven trece pueblos indígenas entre los cuales están los bawm, *chak, chakma, kheyang, khumi, lushai, marma, mro, pankho, tangchangya* y *tripura* y lo han hecho durante siglos. Son conocidos colectivamente como *jummas*, un término que proviene de *jum*, la agricultura "swidden" (rotativa) practicada tradicionalmente en Hill Tracts, y suman aproximadamente 7-800.000 individuos. Tienen sus propias tradiciones y culturas, y sus propias estructuras estatales. Sin embargo, durante los últimos veinte años los indígenas jummas han sufrido la militarización, muertes ilegales, asesinatos, violaciones, arrestos arbitrarios, detenciones y otras herramientas violentas de opresión. Además, han sido despojados de sus territorios tradicionales por unos 450.000 colonos patrocinados por el estado, provenientes de las áreas de llanuras, a quienes se les otorgó ilegalmente sus tierras (1979-84). Como resultado, unos 56.000 indígenas jumma se refugiaron en la India. Durante este periodo, comenzó un movimiento indígena autónomo en CHT, liderado por el *Parbatya Chattagram Jana Samhati Samity* - Partido Unido Popular de Chittagong Hill Tracts (PCJSS), y su ala armada, el *Shanti Bahini* (Cuerpo de Paz).

Ya se habían hecho intentos previos de resolver el conflicto. En 1992, comenzó otra ronda de negociaciones durante el gobierno de Khaleda Zia. El 2 de diciembre de 1997, después de cinco años de intensa discusión y diálogo, el gobierno de Bangladesh y el PCJSS firmaron un Acuerdo de Paz.

El Acuerdo de Paz

El siguiente es un breve análisis de las características más sobresalientes del Acuerdo que prevé la devolución del poder a través de lo siguiente:

Concejos de Distrito: Los poderes y funciones de los Concejos de Distrito existentes serán expandidos y aumentados mediante la enmienda de las leyes pertinentes (*Parbatya Zila Sthanio Parishad Ain 1989* - Leyes del Gobierno Local del Distrito de la Montaña, 19, 20 y 21 de 1989, para Rangamati, Khagrachari y Bandarban respectivamente. Según los términos del Acuerdo, los Concejos de Distritos Montañeses (HDC) serán compuestos por 34 miembros con cuotas para los diferentes pueblos indígenas, mujeres (3), y personas no-indígenas (10). Los Concejos serán elegidos directamente y por los habitantes de CHT por un periodo de cinco años y el presidente será de origen indígena.

Entre los elementos dentro de la jurisdicción de los Concejos de Distritos Montañeses están la tierra, los cultivos *jum*, la agricultura y los bosques, la educación (vocacional, educación primaria en lengua materna y educación secundaria), la policía local, la ley y justicia indígena, la protección del medio ambiente y desarrollo y el turismo. Los Concejos de Distritos Montañeses también tienen la autoridad de aplicar algunos derechos financieros e impositivos, incluyendo los impuestos sobre bienes, tierras y estructuras, industrias, comercios, pesca, etc. y a recibir una porción de las regalías provenientes de los recursos forestales y minerales. También tienen derecho a apelar al Gobierno en lo que respecta a la legislación que pueda afectar a CHT, y el Gobierno puede tomar las medidas apropiadas para solucionar la situación.

Otro componente del Acuerdo es el requisito de *aprobación previa* del Concejo de Distrito pertinente para el asentamiento, compra, venta, transferencia o arrendamiento de cualquier tipo de tierra dentro de CHT con la excepción de las Reservas Forestales, el Complejo Energético Hidroeléctrico Kaptai, la Estación Satelital Terrestre Betbunia, las industrias de propiedad estatal, y las tierras registradas en nombre del Gobierno. No obstante, si uno toma en cuenta la cantidad de tierra

que no cae dentro de las antes mencionadas categorías, se estima que la jurisdicción de los Concejos de Distritos Montañeses se extenderá a aproximadamente el 10% de la superficie total de tierras de CHT. Una importante porción de CHT es clasificada como Reserva Forestal, y alrededor de un cuarto de la tierra agrícola está sumergida bajo las aguas del Lago Kaptai, construido en 1959-61.

Concejo Regional: Se establecerá un Concejo Regional de 22 miembros en CHT con 2/3 de representación indígena, incluyendo a su Presidente. Siete escaños son reservados para la población no-indígena de CHT, y tres para las mujeres (dos indígenas, una no-indígena). El Concejo Regional será elegido indirectamente por los Concejos de Distrito por un término de cinco años, con los presidentes de los tres Concejos de Distrito como miembros *ex officio*. La autoridad del Concejo es principalmente supervisora, ya que su tarea es monitorear y coordinar el trabajo de los Concejos de Distritos. Entre otras cuestiones de su jurisdicción se encuentran la administración general, la ley y el orden, el derecho indígena y la justicia social, y el desarrollo, incluyendo el trabajo de la Junta de Desarrollo de CHT y de las ONGs. Un importante elemento de su poder es la prerrogativa de ser consultado antes de la promulgación de cualquier legislación relevante para CHT.

Ministerio de CHT: Según los términos del Acuerdo, se creará un Ministerio de Asuntos de CHT, encabezado por un Ministro indígena. Será asistido por un Comité Asesor compuesto de los presidentes del Concejo Regional y de los Concejos de Distritos Montañeses, miembros del Parlamento de CHT y tres jefes tradicionales (Rajas). El Ministerio coordinará el trabajo de los diferentes ministerios, agencias y otros organismos institucionales involucrados en los asuntos de CHT, y su papel en influir sobre el proceso político será considerable.

Como medida interina, el Sr. Kalpa Ranjan Chakma, un miembro parlamentario indígena, ha sido nombrado como Ministro sin cartera.

Derechos Territoriales: Un tema de importancia en CHT son los derechos territoriales indígenas. El asentamiento promovido por el gobierno de unas 450.000 personas de las llanuras en Hill Tracts ha llevado a reivindicaciones de tierra conflictivas que todavía siguen sin

resolverse. El Acuerdo estipula que se realizará un relevamiento de tierras para examinar los registros de tierra y los derechos de propiedad y posesión de los pueblos indígenas, en consulta con el Concejo Regional y que se establecerá una Comisión de Tierras para resolver las reivindicaciones territoriales encabezada por un juez retirado. Los miembros serán el Jefe pertinente, el Concejo Regional, la administración civil y el presidente del Concejo de Distrito Montañes pertinente. La base del trabajo de la Comisión serán las leyes, costumbres y sistemas de CHT, y su decisión es definitiva. La Comisión será establecida por un periodo inicial de tres años aunque puede ser extendido bajo consulta con el Concejo Regional.

Hasta la fecha, no se han tomado medidas para establecer la Comisión de Tierras, la cual es un componente integral del proceso de Paz de CHT.

Militarización: La presencia del ejército en CHT ha sido ubicua. Las estimaciones indican que hay tantos como 114.500 efectivos militares en CHT (población indígena: 600.000), fuerzas militares y paramilitares, y su directa participación en la violación de derechos humanos ha sido bien documentada en los organismos de las Naciones Unidas como la Comisión de Derechos Humanos, el Grupo de Trabajo sobre Poblaciones Indígenas, el Comité sobre la Discriminación Racial, etc. y Amnistía Internacional. Según los términos del Acuerdo, todos los campamentos temporarios del Ejército, Ansar y Fuerzas de Defensa Aldeana serán gradualmente retirados de sus estacionamientos permanentes, aunque no está aclarado si esto será dentro o fuera de CHT. Los Fusileros de Bangladesh (BDR) y los acantonamientos permanentes que están en Alikadam, Ruma, Dighinala y uno en los cuarteles generales de los tres distritos permanecerán en CHT, es decir, seis instalaciones militares permanentes. Las fuerzas armadas pueden intervenir durante situaciones de alteración de la ley y el orden o a causa de desastres naturales a requerimiento del Concejo Regional.

Dada la pasada historia de graves violaciones de los derechos humanos en CHT, y el poder y las influencias esgrimidas por las fuerzas armadas en asuntos civiles (por ejemplo, el comandante en jefe del ejército es el presidente de la Junta de Desarrollo de CHT), existen

serias preocupaciones sobre si el tema de la militarización fue adecuadamente encarado por el Acuerdo. Hasta la fecha, no ha habido ninguna reducción ni retiro de fuerzas armadas de CHT aunque el *Shanti Bahini* ha depuesto sus armas y municiones (febrero-marzo de 1998).

Paz en Chittagong Hill Tracts: ceremonia de deposición de armas, 10 de febrero. Khagrachari (Foto: Raja Devasish Roy)

Manifestaciones anti-Acuerdo

El Acuerdo de Paz de CHT fue celebrado con entusiasmo, tanto en el país como en el extranjero, incluyendo al Secretario General de las Naciones Unidas, el Sr. Kofi Annan, el Presidente de los EE.UU. Bill Clinton, la Unión Europea, el Parlamento Británico y los Gobiernos de Australia, Canadá, Dinamarca y Francia, entre otros.

La Primera Ministra Sheikh Hasina y el partido gobernante Awami han calificado al Acuerdo como necesario para la protección del interés nacional y para promover la armonía racial, y muchos intelectua-

667

les, abogados, activistas, etc. de la mayoría de la población bengalí también han declarado públicamente su apoyo al Acuerdo.

No obstante, el Acuerdo de Paz se ha enfrentado a la severa crítica de los partidos políticos de oposición, en particular el Partido Nacional de Bangladesh (BNP), liderado por el ex-Primer Ministro Begum Khaleda Zia. El BNP condena el acuerdo por inconstitucional y contrario a la integridad nacional. Junto con otros seis partidos políticos, incluyendo al fundamentalista Jamaat-i-Islami y el Partido Jatiyo (encabezado por el ex-Presidente Ershar), el BNP ha estado organizando manifestaciones, marchas, ha*rtals* (huelgas generales), etc. para protestar contra el Acuerdo de Paz.

Los pueblos indígenas están sumamente complacidos ante la perspectiva de la paz después de más de veinte años de vivir bajo el control militar, con violaciones, muertes y arrestos arbitrarios como acontecimientos diarios. No obstante, un grupo disidente del Concejo de Estudiantes Montañeses, del Concejo de los Pueblos Montañeses y de la Federación de Mujeres Montañesas se opone al Acuerdo por la razón de que no otorga la autonomía regional a CHT y no cumple con las demandas de (i) reconocimiento constitucional de CHT como área indígena, (ii) reconocimiento de sus derechos territoriales tradicionales y (iii) la retirada del ejército de CHT.

Leyes para CHT

El 12 de abril de 1998 se presentaron en el Parlamento cuatro proyectos de ley para posibilitar el marco legislativo para el Acuerdo de Paz: tres proyectos de ley para enmendar a los Concejos de Distrito y otro para establecer el Concejo Regional. Al estudiar los proyectos de ley, el JSS puso objeciones porque contenían "muchas inconsistencias y desviaciones" del texto del Acuerdo, y se celebraron reuniones entre el JSS y el Gobierno para resolver las diferencias (19-21 de abril).

La aprobación de las cuatro leyes para CHT en el Parlamento fue tormentosa y la oposición presentó hasta 5.000 enmiendas. Las leyes fueron aprobadas en mayo de 1998. Sin embargo, quedan algunas discrepancias, en particular la que enmienda a la Ley del Concejo de

668

Distrito de Rangamati, aunque el Gobierno prometió rectificar la situación a la brevedad.

Repatriación de refugiados

El 15 de febrero de 1994, comenzó un proceso de repatriación de los refugiados jumma. Estos retornaron en lotes según los términos de un acuerdo contraído con los líderes de los refugiados, el cual incluye un componente de beneficios de 20 puntos y la restitución de sus tierras. El último lote de refugiados, incluyendo al Presidente de la Asociación por el Bienestar de los Refugiados Jumma, el Sr. Upendra Lal Chakma, retornó a CHT el 27 de febrero de 1998, elevando la cantidad de refugiados repatriados a una cifra estimada de 64.520 (12.582 familias). Sin embargo, existen informaciones de que los términos del acuerdo no han sido cumplidos y que las facilidades de rehabilitación provistas a los refugiados no han sido adecuadas en cuanto a alimentos y otros suministros esenciales.

Además, la mayoria de los jumma repatriados no han podido recuperar sus hogares y granjas que siguen bajo la ocupación ilegal de las familias colonas. No han sido tomadas medidas efectivas para remediar esta situación.

Otra dimensión de esta situación es la negativa de las autoridades de distrito a reconocer a miles de refugiados que retornaron a Bandarban, en el sur de CHT, desde Mizoram, India. Así, estos refugiados no han sido oficialmente registrados como refugiados repatriados y no pueden obtener ninguna ayuda para la repatriación o rehabilitación. Como resultado, su situación es seria y existen informes alarmantes de una crisis de alimentos en CHT: "Los refugiados se enfrentan a una aguda carencia de alimentos. Al mismo tiempo sufren de diversas enfermedades. Si tal situación continúa, muchos refugiados morirán". Ya se informó de la muerte de seis personas.

Se estableció un equipo de trabajo de tres miembros para la rehabilitación de los refugiados y de las personas desplazadas internamente, compuesto por un miembro parlamentario indígena como Presidente (Sr. Dipankar Talukdar), y representantes del JSS y de la Asociación para el Bienestar de los Refugiados Jumma. Es de esperar que el Equipo

tome las medidas necesarias para aliviar y resolver la situación de los refugiados en forma efectiva y urgente.

Exploración petrolera

El 16 de febrero de 1997, United Meridian International Corporation (UMIC) firmó un contrato con el Gobierno de Bangladesh (Petrobangla) para la exploración y desarrollo del potencial petrolero y de gas de CHT según un Contrato para Compartir la Producción en el Territorio de CHT (Bloque Nº 22). Esto cubre toda el área de CHT. A comienzos de 1998, un equipo de científicos estuvo seis semanas en CHT y basándose en sus conclusiones y relevamientos geológicos preliminares, existen razones para creer que pueden haber reservas de petróleo y gas en CHT. UMIC está actualmente realizando un relevamiento sísmico de profundidad que se espera esté terminado en junio de 1998, para identificar lugares específicos de perforación.

El impacto de este descubrimiento tendrá importantes repercusiones sobre las vidas de los pueblos indígenas, y como el Acuerdo de Paz indica las modalidades para la participación de los pueblos indígenas en el desarrollo y manejo de CHT y de sus recursos, se ha agregado un nuevo elemento al contrato Petrobangla-UMIC.

Derechos humanos

Aunque la situación general de CHT ha mejorado considerablemente desde la firma del acuerdo, ha habido una serie de choques inter-étnicos entre los colonos y los pueblos indígenas con bajas fatales en ambos lados. Los colonos de la llanura se sienten amenazados por el Acuerdo de Paz y la situación se ve agravada por las actividades anti-Acuerdo de Paz de la alianza opositora, compuesta por 7 partidos, que llama a la cancelación del Acuerdo.

Algunos miembros del Concejo de Estudiantes Montañeses que se oponen al Acuerdo fueron arrestados. Entre ellos están Sanchoy Chakma y Dhrubojyoti Chakma (18 de marzo 1998), y Tapash Dewan, Prodip Tripura, Ushakanta Chakma y Bakka Chakma unos pocos días después. Además, todavía se desconoce el paradero de Kalpana Chakma, Secretaria Organizativa de la Federación de Mujeres Montañesas,

quien fuera secuestrada el 11 de junio de 1996, aunque una comisión investigadora sobre el asunto ha finalizado su informe. El informe no ha sido hecho público.

Conclusión

El Acuerdo de Paz es el resultado de intensas negociaciones realizadas durante cinco años, complementadas por la experiencia obtenida durante las rondas previas de negociaciones. Es una importante herramienta para la negociación y brinda un marco para el diálogo y la discusión. Después de 22 años de violencia y tensión existe una oportunidad de estabilizar la situación en CHT y promover los derechos de los pueblos indigenas a través de instituciones democráticas y con su participación en los procesos resolutivos.

El Acuerdo de Paz es un comienzo y no el final. Pavimenta el camino para que la paz y la prosperidad retornen a CHT y como la Primera Ministra Sheikh Hasina lo encaró en su discurso en la ceremonia de deposición de armas el 10 de febrero en Khagrachari, se espera que esto introduzca una nueva era en la historia de Bangladesh, particularmente en Chittagong Hill Tracts. El desafio que está por delante es asegurar que sus diferentes componentes sean implementados de una manera comprehensiva. Como declaró el Sr. Jyotirindra Bodhipriya Larma, Presidente del PCJSS, "Es fácil firmar un acuerdo. Es dificil implementarlo".

INDIA

El noreste de la India

De las 5.653 comunidades de la India, 635 son tribales; y de éstas, se considera que unas 200 se encuentran en el noreste de la India. El noreste de la India consiste de siete estados, y tenia una población total de 31.547.314 habitantes en 1991. De esta población, una cantidad total de 8.142.624 individuos de Tribus Registradas y 2.161.161 de Castas Registradas están diseminados por los siete estados. Desde el punto de vista del área geográfica, Arunachal Pradesh cubre un área de 83.743 km cuadrados, seguida por Assam con 78.438, Meghalaya 22.429, Manipur 22.327, Mizoram 21.327, Nagaland 16.579 y Tripu-

671

ra 10.486 km cuadrados. Assam tiene la más alta proporción de la población total de Tribus Registradas del noreste (35,30 por ciento), seguida por Meghlaya (18,64 por ciento), Nagaland (13,03 por ciento), Tripura (10,48 por ciento), Mizoram (8,03 por ciento), Manipur (7,76 por ciento) y Arunachal Pradesh (6,76 por ciento).

En **Arunachal Pradesh**, los grupos indígenas son inmigrantes del grupo tibeto-birmano que penetraron en la región hace muchos siglos. Algunas de las tribus importantes son los *adis (abor), akas, apa tanis, daflas, gallong, khamtis, monpas, noctes, sherdukpen, singphos, tangsas, wanchos* y muchas tribus menores. Después de la reorganización del noreste de la India en 1971, los indígenas tribales comenzaron a darse cuenta de la seriedad de la transferencia de varias zonas forestales que habían pertenecido tradicionalmente a las comunidades tribales. La transferencia de tierras forestales se efectuó en 1919. El tema no llamó la atención hasta la creación del estado de Arunachal y su interés en retener esta tierra para facilitar la red de comunicación, alentar la agricultura sedentaria y desarrollar centros de crecimiento.

Como en todo el noreste, Arunachal ha estado últimamente alterado por la agitación sobre temas relativos a la inmigración. La génesis se ubica en el éxodo de los refugiados tibetanos después de la huida del Dalai Lama a la India en 1959. Además, la construcción de la represa de Kaptai en Chittagong en 1964 también condujo al desplazamiento *chakma*. Los chakmas se trasladaron en grandes cantidades a Mizoram, Tripura y Assam. Luego el Gobierno Central decidió repatriar a los chakmas de Arunachal debido a su baja densidad de población. Los aruchanaleses había procurado repatriar a estos chakmas repetidas veces. Los chakmas reclaman ahora la ciudadanía como un asunto de derecho y compiten por tierra y empleo.

Fueron publicados ocasionalmente avisos que decían "Váyanse de Aruchanal" por la Unión de Estudiantes de Aruchanal Pradesh (AAPSU), declarando a los chakmas como huéspedes indeseados. Las agitaciones culminaron en incendios, violencia, negación de tarjetas de racionamiento y admisión escolar. Los movimientos clandestinos de Assam y Nagaland trataron incluso de apoyar las demandas de AAPSU. Esto podría cambiar lo que todavía es en gran medida un estado

pacífico. Durante la segunda semana de diciembre de 1997, personal local clandestino mató a tiros a policía en servicio en el puesto de control cerca de Lakla, en el distrito de Changlang. La policía mantiene ahora una vigilancia atenta sobre el movimiento clandestino. La cantidad de chakmas no es grande, pero en algunas áreas, son más numerosos que los habitantes locales, quienes se sienten amenazados. Y en un estado con una población de 864.558 individuos, cuando los elementos externos constituyen casi un tercio, la situación puede convertirse en crítica. Esto es exactamente lo que está sucediendo actualmente en Arunachal Pradesh.

En **Tripura**, los *tripuri* eran los habitantes originarios de la región. Tripura fue gobernado por reinos tribales durante muchos siglos. Una sucesión de 183 Príncipes tribales tripuri gobernaron Tripura antes de ser marginados y subyugados por inmigrantes. Los tripuri son el grupo indígena dominante. Entre otros pueblos indígenas se encuentran los *reang, jamatias, naotias, halam, kukis, garos, mizos* y otros. Durante el siglo XIX, los bengalíes eran bienvenidos porque su cultura y técnicas de producción eran consideradas superiores. Es más, después de la promulgación de la Legislación Tea Garden en 1917 y 1925, las personas no-tribales fueron alentadas a inmigrar a Tripura. Y después de la separación, la tasa de aflujo de Bangladesh se intensificó, y la densidad de población aumentó de 49 en 1949 a 196 en 1981. La primera oposición a la afluencia bengalí se sintió en 1947 y se formó SENG KRAK para salvaguardar los intereses tribales. Esto fue pronto seguido por la formación de Tripura Upajati Juba Samiti (TUJS), Fuerza Tribal de Toda Tripura (ATTF), Voluntarios Tribales Nacionales (TNV), y Frente de Liberación Nacional de Tripura (NLFT). Todos esto condujo a actividades tribales clandestinas de agitación.

Después de 1960, la situación desplazada de los pueblos indígenas se ha revelado en forma de la enajenación de tierra tribal cuando los refugiados fueron rehabilitados en las áreas tribales. La reserva tribal, que constituía el 42 por ciento del territorio nacional, formada en 1931 y 1941, perdió el carácter de reserva. Las comunidades indígenas se convirtieron en comunidades sin tierra y han estado luchando para recuperar lo perdido. Durante la violencia pre-electoral, al menos 30

personas fueron muertas por TNV, y en 1998 102 personas. Pero después de las elecciones de 1988, los hombres del TNV se rindieron y se convirtieron en un partido político, a ser rápidamente seguido por la formación de ATTF. ATTF convocó a un boicot electoral de las elecciones generales de 1998. Esto tuvo como consecuencia una serie de ataques en áreas habitadas por bengalíes durante el mes de febrero de 1998, con el resultado de 19 personas muertas. Muchos bengalíes han abandonado sus casas por seguridad. La situación sigue siendo muy tensa.

Los tres grupos indígenas más importantes de **Meghalaya** son los *khasis, los jaintias* y los *garos*. Los garos son de procedencia tibeto-birmana y se asentaron en las Montañas Garo hace 400 años. Los khasis pertenecen únicamente al grupo *mon-khmer*, y jaintia es un término genérico para los *synteng* o *pnar* y otros subgrupos pertenecientes a la tierra de los 12 Dolois (gobernadores locales).

La consolidación británica trajo con ella bengalíes, nepaleses y marwaris. Meghalaya fue pacífico hasta 1978 cuando la Unión de Estudiantes Khasi (KSU) comenzó a tomar un papel activo en detectar elementos externos. Afirmaron que en los cinturones carboníferos de Jaintia, las personas de origen nepalés y de Bangladesh superan en número a los pueblos locales. Y en las montañas Khasi, los khasi han sido superados en número en algunas localidades. KSU estima que hay un total de unos 3.000.000 de inmigrantes de Nepal y de Bangladesh en Meghalaya. Hace un llamado a la identificación de los extranjeros y a su deportación.

El creciente descontento en Meghalaya es también un resultado de la presión ejercida sobre la tierra y los bosques y los problemas vinculados de desempleo entre la juventud educada. En todo Meghalaya, la tierra es propiedad de la comunidad como un regalo de Dios. Los Dolois, Syiems y Nokmas son sólo agencias para otorgar las parcelas de tierra para la agricultura jhum. El tema de la tierra es fundamental en Meghalaya, igual que en todas otras partes. La KSU, la Federación de Khasi Jainta y los Pueblos Garo (FKJGP), el Ejército de Liberación Matgrik Achik (ALMA), y el Consejo de Liberación Khasi Hynniewtrep Achik (HALC) están tratando de salvaguardar los intereses triba-

les indígenas. HALC se organiza como un grupo insurgente clandestino, y es cada vez más efectivo en el control del curso de los acontecimientos en el estado. Los disturbios de 1987 hicieron que una cantidad de nepaleses huyera de Meghalaya y buscara refugio en Darjeeling y Siliguri. Aunque los incidentes ocasionales y las acciones de bandas fueron comunes durante 1997, la política local de los años recientes impide que se conviertan en violencia comunal masiva como sucedió en otras áreas. No obstante, la situación sigue siendo muy fluctuante.

Los primeros habitantes conocidos de **Assam** parecen ser los *bodos*. Los bodos o *boros* dominaban políticamente hasta que fueron subyugados por los *ahom* en el siglo XIII. Los ahom fueron a su vez subyugados por los británicos y así surgió la actual sociedad de Assam. Los bodos fueron marginados tanto durante el gobierno ahom como el británico. Finalmente fueron dejados fuera de la previsión del Quinto y Sexto Registro de la Constitución de la India. Los británicos también pusieron a los ahom en una situación marginal y éstos respondieron formando la Asociación Unificada Assam Ahom en 1893. Los ahom eran tribales *shan* semi-budistas que se convirtieron al sánscrito después del siglo XIII. En 1909 eran considerados como hindúes inferiores, pero perdieron su estatus en 1935 cuando fueron eliminados de la lista de las comunidades minoritarias. Desde 1967 han estado tratando de mejorar su condición mediante la formación de Assam Tal Sabha Unificado y luego Ahom Tai Mongoliya Rajya Parashad. Recientemente los ahom de Assam superior están tratando de obtener una identidad de Tribu/Casta Registrada que el gobierno central todavía no ha concedido.

Debido a la afluencia de inmigrantes y refugiados después de la Independencia, los bodos fueron testigos de la enajenación de la tierra, lo cual condujo a la formación de Bodo Sahitya Sabha en 1952 y el Concejo de los Tribales de las Llanuras de Assam en 1967. La Unión Unificada de Estudiantes Bodo (ABSU) y el Comité de Acción del Pueblo Bodo (BPAC) alegaron que se habían enajenado más de 50.000 hectáreas de tierra. La Unión de Estudiantes Tiwa también alegó que 3.256 acres de sus tierras habían pasado a manos de no-tribales y otros

24.039 acres fueron adquiridos como reservas forestales, 1.327 de los mismos para la industria y 19.971 para cultivos de té. Los bodo experimentaron un profundo sentido de la discriminación y en marzo de 1987, tanto ABSU como BPAC iniciaron un movimiento por una tierra separada, Bodoland, la cual incluiría a los bodo-kacharis que viven en Karbi Anglong. La violencia y la intimidación escalaron con extorsión, secuestros y asesinatos. La Legislatura de Assam aprobó la Ley del Concejo Autónomo Bodo (BAC) el 20 de febrero de 1993, para otorgar un máximo de autonomia a los bodos para la mejora de su bienestar social, económico, educacional, étnico y cultural.

BAC consistirá de un Concejo General que comprende a 40 miembros, 35 electos por cinco años. Como parte del Acuerdo, este Concejo tendrá poderes para hacer leyes, reglamentos y órdenes para aplicarse dentro del área BAC sobre 38 temas especificados. Pero el Acuerdo Bodo no fue aceptado por la Fuerza de Seguridad Bodo ya que no satisfacía sus exigencias. BPAC y VCF fueron disueltos más tarde y se formó un Partido Popular de Bodoland. El 10 de diciembre de 1994 una notificación del Gobierno confirmó la extensión del Concejo Autónomo de Bodoland sobre un área de 5.146 km cuadrados, comprendiendo a 2.750 aldeas con 29 distritos electorales para la Asamblea. Esto excluyó un cinturón de 10 km a lo largo de la frontera con Bután y las reservas forestales de Manas. ABSU denunció la notificación y exigió la inclusión del área entera hasta la frontera internacional y 515 aldeas bodo adicionales. La consiguiente adición de 112 aldeas en octubre de 1995 fue rechazada otra vez y el atolladero continuó durante 1996 y 1997. Se llamó al ejército para ayudar a la administración civil. La Fuerza de Seguridad Bodo cambió su nombre al de Ejército Bodo y ha estado en contacto con ULFA, NSCN (M). Las acciones de bandas armadas, las muertes y las explosiones continúan, y hubo un llamado al boicot de las elecciones generales de 1998. Pero las elecciones se celebraron el 16 de febrero de 1998, y hubo solamente un porcentaje de votantes del 45 por ciento.

Manipur es el estado más antiguo del norte de la India, datando desde el año 33 A.C., cuando 74 reyes me*itei* reinaron el país. Los meiteis son miembros de la familia tibeto-birmana. Pero en el siglo XVIII el

rey Garib Nawaz hizo del vaishanavismo la religión estatal, y la forma social tribal se sanscritizó. Manipur se convirtió en parte de India el 21 de septiembre de 1949. Muchos meiteis no estaban safisfechos con el hecho de convertirse en parte de la India y formaron el Frente Unido de Liberación Nacional (UNLF) para restaurar el reino Meitei. Y como consecuencia del movimiento insurgente, se llamó al ejército y la aplicación de la Ley de Poderes Especiales de las Fuerzas Armadas tuvo como resultado la opresión militar.

Los k*ukis* han estado durante más de 200 años en las regiones montañosas de dominación tribal, reivindican parte del área como su territorio y se niegan a pagar impuestos domiciliarios al movimiento clandestino *naga*. Entonces decidieron defender sus aldeas ubicando Guardias Kuki entrenados en Myanmar. La situación condujo a choques étnicos desde 1992. Los kukis exigen ahora la creación de Kukiland y forman la Fuerza Nacional Kuki. Los nagas también forman la Guardia Naga Lim y decidieron limpiar de kukis el área dominada por ellos. Como resultado de la violencia étnica, más de 600 personas han resultado muertas, 6.000 casas han sido incendiadas y 30.000 personas han quedado sin hogar. Los enfrentamientos étnicos pueden tener un nuevo giro con la demanda de los nagas de separar su territorio del estado de Manipur, la cual será enfrentada con la resistencia del movimiento clandestino meitei, UNLF, así como también por la tensión prevaleciente entre los kukis y los *paites* en el distrito de Churachandpur.

(Sobre Nagaland ver capítulo Asia Sureste.)

Los *mizos* de **Mizoram** residían antes en el actual estado shan de Myanmar. Las dificultades económicas los forzaron a moverse hacia el oeste, a Khampat en el valle de Kabay y hasta el actual Mizoram. Otros grupos más débiles fueron empujados en diferentes direcciones. Son los *miris, hmar, pang, bawmzos, tangkhul, thahdos*, y *annal*. La primera subyugación de Mizoram sucedió durante la Expedición Chin-Lushai en 1889-90, y marcó la colonización final de Mizoram. Pero los británicos se abstuvieron de entrometerse en la administración interna.

Fue entonces, recién después de la independencia de la India que se percibió y sintió el primer signo sustancial del proceso de marginación y etnificación cuando Mizoram fue fuertemente golpeado por la hambruna en 1959-60. El gobierno de Assam no tomó medidas serias para resolver la situación de hambruna, y entonces tuvieron conciencia de verse reducidos a una fuerza marginada y de estar aislados geográfica, política, religiosa y racialmente. Como resultado se formó el Frente Nacional Mizo (MNF) como un partido político en 1961 para revivir la integridad e identidad de los mizos, y exigir la secesión de la India. El MNF se transformó luego en un movimiento insurgente clandestino en 1966, que finalmente condujo a la creación del estado de Mizoram el 20 de febrero de 1987. El MNF pasó otra vez a la legalidad y existe una situación pacífica en Mizoram desde ese entonces, sólo ensombrecida recientemente por el problema chakma.

Los *chakmas* son inmigrantes de Bangladesh. La afluencia de inmigrantes comenzó incluso antes de la independencia de la India, pero se convirtió en un problema importante después de la partición y el desplazamiento de muchos chakmas por la construcción de la represa de Kaptai en 1964. Ellos ahora reivindican la tierra que han habitado como propia como un asunto de derecho, y están demandando un distrito separado o un estatus de Territorio de la Unión. El artículo 244 (2) de la Constitución de la India prevé un Sexto Registro en tres partes.

La parte III incluye (1) el distrito Chakma (2) el distrito Mara y (3) el distrito Lai. Todos estos tres distritos están en el sur de Mizoram. A causa de la previsión constitucional, los chakmas tienen confianza en su demanda de posesión territorial. Por otro lado, los mizos sienten que los chakmas están invadiendo su territorio legítimo. El problema puede hacer surgir a nuevos movimientos insurgentes en Mizoram.

Existe una buena cantidad de habitantes *reang* en Mizoram. Las fuerzas insurgentes reang han estado intimidando a los habitantes reang de Mizoram para que se refugien en Tripura. La intención del movimiento insurgente es provocar la creación de un Territorio Reang en Tripura. Esto fue hecho en la última parte de 1997, y tuvo como resultado un gran aflujo de refugiados reang a Tripura. La repatriación de estos refugiados se convierte en un importante problema tanto en Tripura como en Mizoram. La situación fue completamente examinada

por los chakmas, incluyendo a la Asociación de Estudiantes Chakmas, para jugar su carta contra los mizos. En estas circunstancias, se inventaron muchas historias no confiables y fueron publicadas en periódicos nacionales durante 1997. La situación podría sacudir la pacífica atmósfera de Mizoram.

Jharkand

Frecuentemente, cínicamente, estamos dispuestos a observar que Jharkand no sólo es rica en recursos naturales y minerales, sino que también es "rica" en problemas y por lo tanto se convierte en una "mina de oro" para los activistas y académicos, tanto aquellos bien intencionados como aquellos que no lo son tanto. Quizá, aquellos que tienen un énfasis diferente pueden contemplar o ser ciegos ante los problemas, y tratar de encontrar o contemplar la apertura plateada entre las oscuras nubes. Sin embargo, para muchos otros, o la mayoría de los habitantes de Jharkand, el oscuro de la noche nunca parece romperse por la brillantez del día.

Si uno ojea la cantidad de problemas informados en los periódicos, se hace aparente una cierta intensidad y modelo. Por causa de la brevedad del espacio trataremos sólo unos pocos de los mismos, es decir, los temas de:

1. La creciente militancia o extremismo en Jharkand;
2. La agresión del bosque y el medio ambiente;
3. La amenaza de la continua explotación industrial;
4. El menosprecio de las lenguas tribales y regionales; y
5. La oposición a la autonomía o el reconocimiento de la autogestión adivasi

1. Creciente militancia y extremismo en Jharkand

Ataques contra inocentes

A comienzos de mayo de 1997, aparecieron carteles en el pequeño pueblo noroccidental de Mandar, en el Distrito de Ranchi. En los carteles, el Centro Comunista Maoísta (M.C.C.) pidió enviar voluntariamente diez estudiantes a los campamentos de entrenamiento. Los car-

teles habían advertido que si los niños no eran enviados voluntariamente, entonces serían secuestrados por la fuerza.

El 12 de mayo de 1997, a unos 12 kilómetros de Koderma, en la parte más septentrional del distrito de Hazaribagh, cerca del puente Footlaiya, el prohibido M.C.C. mató a once personas. Los militantes, que sumaban de 40 a 45 personas estaban armados y esperando. A eso de las ocho de la mañana, los extremistas interceptaron dos vehículos que iban en dirección a Koderma y mataron a once personas.

Guerra interna

El 3 de junio de 1997, a plena luz del día, durante la tarde, unos 200 miembros del Partido Unidad rodearon la aldea de Madhgari que está dentro de la jurisdicción de la comisaría policial de Bhandari y asesinaron a 2 simpatizantes del M.C.C. En esta oportunidad también incendiaron dos casas.

El 7 de septiembre de 1997, en la aldea de Amkudar, en Chatra, en el norte de Jharkand, una reunión marxista-leninista se convirtió en un campo de batalla cuando extremistas del M.C.C. los atacaron. El fuego comenzó de ambos lados y en total resultaron muertas 40 personas. Otras fuentes ubican la cantidad de muertes en 60. El día anterior se había anticipado un ataque contra la aldea. La aldea de Amkudar es considerada un bastión del M.C.C. A causa de la posibilidad de un ataque, los marxistas-leninistas habían llevado algunos hombres armados. Había unas 250 personas en la reunión, incluyendo a 100 mujeres. A eso de las 4.00 de la tarde, simpatizantes del M.C.C. rodearon el lugar de reunión por todas partes. Tenían armas ultra modernas. En cuestión de minutos ambas partes comenzaron a disparar balas. Los simpatizantes del M.L. no pudieron continuar la lucha mucho tiempo. Cuando se detuvo el fuego 40 personas habían muerto. El M.C.C. luego separó a Laxmi Dangi y le cortó la cabeza y también mataron a tiros a Jhaman Singh Bhogta.

Ataques contra el estado

El 16 de junio de 1997, en la aldea de Edla, bajo la jurisdicción de la comisaría de Chruchu, Distrito de Hazaribagh, en el norte de Jhar-

kand, simpatizantes de la prohibida organización M.C.C. atacaron a cinco miembros de un equipo del Departamento Forestal y Ambiental del Gobierno de la India. Los miembros del equipo fueron atacados con la culata de los rifles y bastones y fueron heridos y se les advirtió que en el área gobierna su gobierno y que las autoridades del Gobierno de la India no pueden entrar sin su permiso, y por lo tanto es un acto criminal. Fueron liberados después de haber sido advertidos que si entraban al área otra vez los matarían.

El 10 de julio de 1997, en el Batallón N°2 de la Policía Militar de Bihar, en la aldea de Kari, bajo la jurisdicción de la comisaría de Manjhioan, unos quinientos miembros armados del Partido Unidad atacaron y mataron a cuatro soldados. Otros cinco soldados fueron también heridos. Dos civiles fueron muertos en el fuego cruzado y otros dos heridos.

El 17 de agosto de 1997, miembros armados del prohibido Partido Unidad mataron al Sr. Baijnath Mishra, ingeniero ejecutivo del Proyecto de embalse de Koel Norte o la represa Kutku. El Sr. Mishra fue asesinado de noche en la misma sede del proyecto. Durante la noche, unos 250 extremistas rodearon la residencia del ingeniero ejecutivo. Rompieron la puerta y llevaron al Sr. Mishra junto con su cocinero, guardia, chofer y valet a unos 200 km hasta el sitio de la represa y lo llenaron de balas. Liberaron a su personal. En las inundaciones que habían precedido al asesinato, 27 personas resultaron muertas y sólo siete cuerpos fueron recuperados. Los extremistas dejaron una nota informando que el asesinato fue un resultado de la pérdida de vidas y propiedad en las inundaciones de Kutku.

La creciente tendencia de los militantes a ajustar cuentas o rivalidades entre ellos mismos en forma despiadada, atacando o matando a personal gubernamental e inclusive a miembros del público inocente constituye una seria causa de preocupación. No obstante, no puede negarse que algunos de los temas que plantean son serios y merecen una atención adecuada.

681

2. Ataques contra los bosques y el medio ambiente

El estado se convierte en un activo colaborador de la destrucción del medio ambiente

En Singhbhum oriental se realizan actividades mineras ilegales de mina abierta en el bosque que está bajo la jurisdicción del Departamento Forestal. Las órdenes de la Suprema Corte de que no habrá actividades mineras en tierras forestales no parecen surtir ningún efecto. La minería legal fue detenida, pero la minería ilegal ha crecido en su lugar, y el gobierno no recibe ninguna regalía de la misma. La minería es realizada con la cooperación tácita de la mafia minera, el Departamento de Minas, el Departamento Forestal, la policía y el jefe de la aldea. Se extraen piedras preciosas sin consideración por el bosque y los animales. Los animales tienen que huir del área minera y, por lo tanto, de sus lugares naturales.

En varias áreas aldeanas de los bloques de Rania y Torpa de la subdivisión de Khunti en el distrito de Ranchi, se está realizando un comercio ilegal de madera a gran escala. Ya es bien sabido que en la aldea de Tapkara, en la jurisdicción de la comisaría de Torpa, se ha estado realizando producción ilegal de muebles durante largo tiempo. Es más, en cada mercado semanal de los sábados, se vende en gran escala madera ilegal y cara de árboles como sakhua, sagwan, paesar. Todo el tiempo se pueden ver a trabajadores del Departamento Forestal recibiendo su cobro de los comerciantes. Muy frecuentemente los funcionarios de los departamentos Forestal y de Policía transportan en sus vehículos madera ilegal a diversos lugares.

Aparte de los dos ejemplos antedichos, el desatino ambiental y la complicidad del Estado de Bihar fue expuesta aun más cuando las inundaciones de la represa Chandil causaron destrucción de hogares y propiedad. Es importante recordar que Chandil fue construida contra la oposición de los habitantes locales de la aldea y de los adivasis. El Estado tuvo que recurrir a disparos y a la muerte de unas cuantas personas y recién entonces se finalizó la represa hace algunos años. Todavía no se ha realizado ningún reasentamiento adecuado ni rehabilitación.

3. La amenaza de la continua explotación industrial

La vida adivasi ha estado conectada con la naturaleza durante muy largo tiempo. A comienzos de este siglo, alrededor del momento de la muerte del héroe adivasi Birsa Munda, el terreno de Jharkand estaba todavía muy forestado. Los adivasis han limpiado algunas tierras para la agricultura, y sus necesidades de alimento, abrigo y vestimenta estaban ampliamente satisfechas por la generosidad de los bosques y los frutos de su trabajo en el suelo. La gente proveniente del exterior o gente de otras comunidades todavía no había tenido una gran influencia en el área, por lo tanto, la presión sobre la tierra era desestimable y los adivasis tenían un mayor espacio económico y político.

Después de la independencia, los grandiosos proyectos del Primer Ministro del así llamado Socialismo Nehruviano comenzaron el rapaz ataque a Jharkand para el desarrollo industrial a costa de la naturaleza y el medio ambiente, y también consecuentemente de la agricultura tradicional de los adivasis y su cultura forestal. La industrialización también condujo a la llegada de más y más personas, principalmente de las sociedades de casta del centro y norte de Bihar, Bengala y otras partes de la India. Esto resultó en el recorte del espacio político y económico de los adivasis, y gradualmente los elementos externos comenzaron a ejercer un dominio sobre la economía y la política de la región. Desgraciadamente, las actuales presiones y tendencias indican que esto continuará:

El 6 de agosto de 1997, el Ranchi Express informó que en la región de Chotanagpur de Jharkand, el Directorio del desarrollo Minero de Bihar explorará diamantes y oro.

El 14 de diciembre de 1997, en Ranchi, el Vicepresidente del Concejo Autónomo del Área de Jharkand (JAAC), el Sr. Suraj Mandal, en una conferencia de prensa hizo un llamado a los inversores, expresando que la ley y el orden y el suministro energético son mejores y mayores y por lo tanto los inversores e industriales deberían invertir en la industria de la región. Complementado este llamado, a mediados de agosto, el Sr. Ratnesh Kumar Jain, antes el mismo año había dicho que en los cincuenta años de la independencia de la India, la industrializa-

ción no ha mantenido el ritmo esperado, mientras que la población aumentó en la región. La población de Ranchi aumentó treinta veces.

Por lo tanto, con la nueva atmósfera de liberalización y globalización, parece que va seguir intentándose la industrialización. No obstante, no existe mucha reflexión por parte de los industriales y políticos sobre la protección y mejora de la agricultura tradicional y la economía de base forestal. Para la clase industrial-capitalista, esto puede simplemente significar otra gran oportunidad para saquear, mientras que para los adivasis, particularmente los de las áreas rurales, puede significar un mayor desplazamiento y reducción de su espacio económico y político.

4. Menosprecio de las lenguas tribales y regionales

En Jharkand, bastantes lenguas adivasi y unas cuantas lenguas regionales son usadas por el pueblo en su conversación diaria y comunicaciones entre ellos. Sin embargo, existe una actitud de normas dobles en la práctica de su legitimidad y reconocimiento, a pesar de buenas leyes que expresan lo contrario.

Maithili es una lengua hablada en un área particular en el norte de Bihar. Ha sido asociada con un pueblo conocido como m*aithili brahmin.* En agosto de 1997, la Suprema Corte de Patna aprobó una decisión en la cual sostuvo que la decisión del Gobierno de Bihar de retirar al maithili de la lista opcional de materias de la Comisión de Servicios Públicos de Bihar era inmotivada y arbitraria y ordenó el retiro de la notificación emitida para su remoción y enlistar otra vez al maithili como una materia.

El 21 de septiembre de 1997, el Sindicato de la Universidad de Ranchi tomó la importante decisión de que también puede usarse en los exámenes de graduación aparte del inglés y del hindi urdu y del bangla .

Por otro lado, las lenguas adivasis no tienen su lugar incluso a nivel primario. Desde el 13 de agosto de 1953, el Gobierno de Bihar en su Resolución Nº 695 E.R. del Departamento de Educación de Ranchi sostuvo que "...el medio de instrucción en materias no lingüísticas será en la lengua materna..." hasta el octavo grado, y que "...las lenguas aceptadas como lenguas maternas para los propósitos de esta resolu-

ción serán hindi, bengali, oriya, urdu, maithili, santhali, oraon, ho, mundari y para los alumnos anglo-hinúes, el inglés". En 1956, la educación en lenguas maternas y su promoción recibieron el endoso Constitucional. Sin embargo, hasta la fecha ni una escuela gubernamental de Bihar realiza educación primaria en lenguas maternas adivasi. Las

Joven munda, Bihar, Jharkand (Foto: Inger Sjoerslev).

Misiones o Iglesias Cristianas que tienen literalmente miles de escuelas en la región y cuyos miembros son principalmente adivasi tampoco se preocupan. Este estado de cosas también indica la falta de preocupación o prejuicios de las autoridades eclesiásticas con relación a las lenguas adivasi en la educación primaria, incluso aunque los misioneros extranjeros de Bélgica, Irlanda, Inglaterra, Alemania, etc. hace tiempo que virtualmente se fueron. Un esfuerzo singular es realizado por el Sr. Anita y sus colaboradores en la Escuela de la Santa Cruz, en

Ranchi, para impartir alguna instrucción en la lengua adivasi khurukh en las clases inferiores.

Además, una demanda presentada en la Oficina de Ranchi de la Suprema Corte de Patna, que solicitaba que una notificación gubernamental para el reclutamiento de maestros de primaria fuera derogada y adecuadamente enmendada porque no incluía a reconocidas lenguas adivasis en los criterios de exámenes o de reclutamiento, fue recientemente desechada sobre la base de que "está bien establecido que la Suprema Corte no puede ejercer su poder bajo el Artículo 226 y 227 de la Constitución basándose en un anuncio en un periódico. Según nuestra opinión el peticionante debería haber sido más cuidadoso en mover a esta corte a una Litigación de Interés Público". Ese asunto no fue considerado por sus méritos o los puntos de la ley al cual se refería. Por lo tanto, se podría decir que la situación de las lenguas adivasi en Jharkand es totalmente injusta e insatisfactoria.

5. La oposición a la autonomía o autogestión adivasi

Según la Ley del Concejo Autónomo del Área de Jharkand, de 1994, la Legislatura del Estado de Bihar promulgó para sus 18 distritos contiguos del sur un Concejo Autónomo para "... el desarrollo acelerado del Área de Jharkand". El área cubre los distritos de Bokaro, Chatra, Deoghar, Dumka, Dhanbad, Garhawa, Giridih, Godda, Gumla, Hazaribagh, Kodarma, Lohardaga, Pakur, Palamau, Ranchi, Sahebganj, Singhbhum (este) y Singhbhum (oeste), o sea, un área de unos 87.000 kilómetros cuadrados. Bajo la misma están 14 distritos electorales parlamentarios y 81 distritos electorales para la Asamblea Legislativa Estatal o Miembro de la Asamblea Legislativa (MLA). Este es el modelo Constitucional normal doble para todos los estados de la India. Sin embargo, según el reciente acuerdo de la Ley JAAC, los 81 distritos constitucionales serán divididos en dos y por lo tanto serán 162 concejeros "... directamente electos...", y aparte, no más que "... 18 miembros nominados".

El Concejo Ejecutivo Interino, cuyos miembros eran todos nominados fue inicialmente formado en agosto de 1995 por un máximo de seis meses hasta que tuvieran lugar las elecciones. Sin embargo, hasta ahora hubo una media docena de extensiones y las elecciones no par-

ecen tener lugar. Además, como reconocimiento del hecho de que esta ha sido tradicionalmente e históricamente un área adivasi, el Presidente de JAAC tiene que ser un miembro de las Tribus Registradas.

Además, el 24 de diciembre de 1996, las Previsiones de la Ley de los Panchayats (Extensión a las Áreas Registradas), 1996, recibió el asentimiento del Presidente de la India. Debe notarse que las Áreas Registradas son las que tradicionalmente e históricamente han sido las tierras y territorios de los pueblos indígenas o Tribus Registradas y han sido designadas como Áreas Registradas. La Ley tiene que ver con los Panchayats o esencialmente el gobierno aldeano o rural. Según esta nueva Ley, los gobiernos estatales son instruidos que cualquier ley hecha después de esta Ley o para el gobierno de las Áreas Registradas rurales debe tomar en cuenta o "... deberá estar en consonancia con el derecho consuetudinario, las prácticas sociales y religiosas y las prácticas de manejo tradicional de los recursos comunitarios", y que "una aldea consistirá ordinariamente de una habitación o un grupo de habitaciones o una choza o un grupo de chozas que comprendan a una comunidad y manejen sus asuntos de acuerdo con las tradiciones y costumbres". Y "...todos los Gram Sabha [consejos aldeanos] tendrán la competencia para salvaguardar y preservar las tradiciones y costumbres del pueblo, su identidad cultural, recursos comunitarios y el modo tradicional de resolución de las disputas".

Otras previsiones que también están destinadas en favor de los adivasis son las secciones sobre la elección las cuales, interpretadas adecuadamente, estipulan que habrá una reserva de escaños en cada estadio del sistema electoral panchayat para aquellos "...para quienes la reserva se solicita sea otorgada en la Parte Ix de la Constitución o las Castas Registradas y las Tribus Registradas". Además "...que todos los escaños de los Presidentes de Panchayats a todos los niveles serán reservados para las Tribus Registradas".

Estas previsiones, especialmente las que confieren "discriminación positiva" -o más bien discriminación compensatoria por los errores históricos de las comunidades dominantes- se han convertido en una causa de agravio para los no-adivasis o comunidades dominantes. Algunas de estas comunidades han vivido lado a lado con los adivasis, y algunas de ellas son muy similares o podrían ser clasificadas como

adivasis, pero quedaron fuera de la nomenclatura oficial del gobierno de "Tribus Registradas". Se intenta darles o construirles un término genérico, "sadans", para las mismas, a pesar de sus muchas contradicciones internas, y también la similitud o el parecido de unas cuantas de ellas con las comunidades aborígenes. Para los adivasis, el peligro sobre la identidad "sadan" es que, no siendo una identidad/construcción cohesiva, muchos grupos/personas que no constituyen comunidades o pueblos jharkandis de larga data o tradicionales, están tratando de trepar a una "identidad sadan". Un punto importante a destacar es que muchas de las comunidades "sadan" se sienten confortables con las estructuras panchayat impuestas, quizá porque perdieron u olvidaron sus tradiciones de autogestión.

Por otro lado, los adivasis todavía exigen y mantienen los sistemas de autogestión y gobierno y su demanda es que el gobierno les otorgue el debido reconocimiento. La presente situación es que durante todo el año, los adivasis han manifestado por la implementación de la Ley 1996 y también han establecido o revivido sus sistemas tradicionales en las áreas rurales, a pesar de la oposición de los "sadan". Por otro lado, los gobiernos estatales que tenían una directiva de la Ley Central de 1996 para implementar las Previsiones de la Ley de los Panchayats (Extensión a las Áreas Registradas) de 1996, no lo han hecho. Es otro ejemplo de cómo el estado controlado por la sociedad dominante retiene el reconocimiento de los derechos adivasis, incluso si están consagrados por sus propias leyes. Aunque algunos se oponen totalmente, y aunque muchos, si no la mayoría de los adivasis, tienen reservas sobre la Ley Central de 1996, la mayoría están de acuerdo con ella por razones prácticas.

Con respecto a los cinco temas antes mencionados, el papel del estado puede ser resumido de la siguiente manera:

- Con el auge de la militancia o extremismo, la vida y la propiedad de los habitantes rurales, incluyendo a los adivasis están amenazados. Pero el estado está indicando su incapacidad y está cediendo ante el ataque.
- La continua explotación industrial y el asalto a los bosques van de la mano. En estas instancias, el Estado perjudica a los adivasis

688

atacando a sus tierras - eso es, sus bosques, montañas, valles, aguas y el total entorno natural. La propiedad y el control de la tierra y los territorios son también facetas del poder económico y político y al usurpar sus tierras, el estado ataca las bases de su economía y poder.

- Con el menosprecio de las lenguas tribales, el Estado aspira a mutilar cultural y socialmente a los adivasis, a tenerlos sometidos a las culturas dominantes.
- Y mediante el no-reconocimiento genuino de los sistemas tradicionales adivasis de autogestión y al no ser serio sobre la devolución de la autonomía, el Estado de la India y la sociedad indican una actitud racista e imperialista.

Uttar Pradesh

El caso van gujjar es presentado a la Comisión Nacional de Derechos Humanos

El pueblo indígena semi-nómada *van gujjar* que vive en los bosques de las partes bajas de las sierras de Shiwalik y en las tierras de pasturas de altura del Himalaya durante el verano, está mostrando ahora positivos signos de fortalecimiento. En vez de convertirse en víctimas de políticas de conservación erróneas, los van gujjar han decidido mantenerse firmes y esgrimir palos contra las autoridades forestales. No sólo se han negado a abandonar sus hogares forestales de hace siglos, lo cual las autoridades forestales los estaban forzando a hacer para convertir a sus territorios en un Parque Nacional, sino que incluso han elaborado un plan detallado de Manejo Forestal Comunitario en el cual serían los principales actores en la protección y manejo de los bosques en los cuales viven (ver informes en *El Mundo Indígena* 1995-95m 1995-96, 1996-97). Su plan otorga incluso espacio a otras comunidades que también son parcialmente dependientes de los bosques donde viven los van gujjar. El papel del gobierno sería el de facilitador. Rural Litigation and Entitlement Kendra, una ONG que trabaja en el área los ayudó a dar forma al plan. El libro que contiene el plan fue publicado el 16 de agosto de 1997, por el entonces Ministro de Medio Ambiente y Bosques de la India.

El plan está de acuerdo con la Nueva Política Forestal de 1988 del Gobierno de la India y muestra también el camino al gobierno para que mantenga sus compromisos con la OIT y la Conferencia de Río. No obstante, ha creado bastante revuelo en la burocracia forestal, la cual siente que su aceptación restringiría sustancialmente sus propios poderes que han estado ejerciendo con impunidad desde que el régimen británico creó el departamento forestal. Esto los ha compelido aparentemente a utilizar métodos duros indebidos, incluyendo la coerción y la amenaza para reasentar a la comunidad fuera de los bosques, para que no sigan siendo habitantes forestales.

A diferencia del pasado, cuando los van gujjar sólo podían rogar y orar a las autoridades forestales por sus derechos, esta vez han llevado la cuestión a la Comisión Nacional de Derechos Humanos (NHRC).

Afirmando sus derechos: van gujjar en Uttar Pradesh, India (Foto: Christian Erni).

690

Ésta ha tomado conocimiento del caso y el mismo está actualmente bajo su activa consideración. Los van gujjar han presentado audazmente declaraciones juradas a la Comisión que expresan las injusticias cometidas contra ellos por las autoridades forestales y cómo sus derechos humanos han sido violados. Hicieron un recuento de las acusaciones presentadas contra ellos por las autoridades forestales y tienen la intención de exponer la desinformación y las mentiras que se divulgan sobre ellos.

Región del sur

Las Montañas Palani Cardamom, una extensión de los Ghat Occidentales en el interior de Tamilnadu, es el territorio de los *pulayar* y los *paliyar*. Los pulayar, quienes hasta 1976 estaban clasificados como Tribu Registrada, fueron reclasificados como Casta Registrada, lo cual no les complace ya que los paliyar consideran a los pulayar como *adivasis*. En Kodaikanal Taluk, en el distrito de Dindigul, hay unas 10.000 personas divididas casi igualmente entre los dos grupos. Con la identificación británica de Kokaikanal por su clima fresco y con la introducción del café y del cardamomo a gran escala, comenzaron las olas de inmigración. Kodaikanal se ha convertido hoy en un importante sitio turístico del sur de la India. Los adivasis, quienes practicaban la agricultura rotativa, asumieron la agricultura sedentaria, y fueron sistemáticamente empujados a convertirse en pequeños granjeros marginados, teniendo que recurrir al trabajo asalariado en las plantaciones y granjas de los inmigrantes. La declaración de grandes áreas como reservas forestales y el no registro de los usufructos de estos adivasis por el Departamento Fiscal, como en todos lados, aseguró que sus derechos fueran negados.

Una gran zona en los límites de la Reserva Forestal, tanto adentro como afuera, de unos 250 acres en K. C. Patti Panchayat era tradicionalmente cultivada por los pulayar de la aldea Kallakinaru, los paliyar de Koramkombu en Kodakanal Taluk y los pulayar del adyacente Dindigul Taluk. Desde la última parte de los años 70, el hostigamiento regular del departamento forestal expulsó a la gente. No obstante continuaron cultivando la tierra a pesar de los continuos hostigamientos.

691

En los años 80, algunos lograron incluso derechos de usufructo, aunque no derechos de propiedad. En 1990 surgió el Palani Malai Adivasi Viduthalai Iyakkam (Movimiento de Liberación Adivasi de las Montañas Palani). Desde 1991, se intensificaron los intentos del Departamento Forestal para apropiarse de esta tierra. El Departamento Fiscal se negó a aceptar los emolumentos anuales por el usufructo continuo de la tierra. Tres casas paliya fueron incendiadas por funcionarios forestales en Koramkombu y dos personas fueron arrestadas bajo falsas acusaciones en Kallakinaru, en 1996.

El 29 de julio de 1996, los funcionarios forestales destruyeron 60 acres de cultivos de café, naranjas, bananas, jengibre y granos, por valor de más de 100.000 rupias. El día siguiente fueron destruidas las cosechas de otros 5 acres de tierra en la cercana Nalloorkadu, valoradas en 500.000 rupias. El movimiento bloqueó la carretera Battalagundu-Panrimalai en Thadiankudisai. El 5 de agosto de 1996, el Encargado Fiscal Divisional de Kodaikanal se hizo presente para sostener conversaciones, acordó que la tierra sería relevada otra vez para determinar si las tierras pertenecen al departamento forestal o al departamento fiscal. Pero al otro día los funcionarios forestales impidieron el relevamiento. El asunto sigue sin resolverse.

En ese momento, como parte de la expansión de la lucha por la autonomía lanzada por el Frente Nacional para la Autonomía Adivasi, surgió el Frente Tamilnadu por la Autonomía Adivasi por iniciativa del movimiento adivasi de las Montañas Palani. Entusiasmada por estos acontecimientos, la gente retomó sus tierras en Kakkakinar y la adyacente Nallorkadu en octubre de 1997, y comenzó a limpiar la tierra para su cultivo y también construyó casas. El 22 de septiembre de 1997, el pueblo frustró un intento de los guardias forestales de destruir dos casas. A eso de las 12 p.m. del 26 de septiembre, 31 funcionarios forestales junto con unos 20 trabajadores contratados conducidos por los Guardias Forestales destruyeron 32 casas, incluyendo utensilios por valor de 79.000 rupias y también golpearon a dos adivasis. A eso de la 1 p.m. unas 200 personas de las aldeas cercanas a Nallorkadu, Kadaiyamalai, Kandipuram, Paraipatti, Kavuchikombu, Pallathuvalavu, Manravayal, Moolayaru, Vellarikarai, etc., acudieron en ayuda de Kallakinaru. Los funcionarios forestales, al verse rodeados, se retira-

692

ron rápidamente. La gente declaró que no tolerará el vandalismo de los funcionarios forestales. Los trabajadores contratados alegaron su inocencia pues fueron contratados por los funcionarios bajo la escusa de realizar trabajos relacionados con el trabajo forestal. Se presentó una demanda contra los funcionarios forestales en la estación de policía de Thandikudi.

Luego vino un período en el cual los funcionarios forestales diseminaron información sobre un ataque masivo contra la gente. La gente estaba preparada para enfrentarlos con polvo de chile, ramas de arbustos espinosos, etc. Además, los adivasis de otras aldeas realizaron turnos para estar presentes en la tierra en disputa durante la noche. La incómoda calma duró hasta noviembre de 1997. El 4 de noviembre a la 1 p.m. unos 500 funcionarios forestales y unos 50 hombres contratados, bajo el liderazgo del Encargado Forestal del Distrito, el Encargado Fiscal Divisional, el Tahsildar y otros funcionarios, descendieron a Kallakinar a eso del mediodía, prendieron fuego a 32 casas y atacaron a la gente con la culata de los rifles, abusando de ellos y logrando arrestar a 17 hombres que fueron llevados a la oficina forestal de Thadiankudisai. Un oficial de policía simpatizante presentó una demanda contra estos oficiales y sus hombres, fundamentada en diversas previsiones, incluyendo la poderosa Ley de 1989 sobre Castas Registradas y Tribus Registradas (Prevención de Atrocidades) y fue inmediatamente transferido por haber presentado una ofensa durante sus funciones. No obstante, en total violación de la misma ley, la policía todavía no ha respondido a la demanda, recurriendo a tácticas dilatorias.

Los arrestados fueron liberados bajo caución. El esperado resultado de asustar a la gente para que abandonara sus tierras falló, y las tierras siguen siendo controladas por la gente. Una de las razones fundamentales para esta valiente resistencia fue el papel de liderazgo de las mujeres adivasis, quienes, a pesar de las brutalidades y heridas, se mantuvieron firmes valientemente. El gobierno tampoco habia esperado tal enconada resistencia y por el momento se retiró. Este éxito condujo a una serie de incidentes en los cuales parcelas menores de tierras que habían sido enajenadas fueron retomadas por la fuerza.

En el estado adyacente de Kerala, el establecimiento de una concejo el 15 de agosto de 1997 (Día de la Independencia) en Panavalli, en el Distrito de Wayanad (donde los adivasis lograron apropiarse de la tierra hace tres años después de enconadas batallas con los funcionarios forestales bajo el liderazgo de una mujer adivasi adiya C.K. Janu, ver *El Mundo Indígena* 1995-96), declaró el comienzo de la autonomía restringiendo la entrada de elementos externos sin el permiso del líder de la aldea, lo cual motivó gritos y lamentos por parte del gobierno y varios partidos políticos. Esto fue seguido por amenazas por parte de los inmigrantes y fue considerado como un preludio de acciones similares que se extenderían a otras aldeas adivasis. Entonces, para alivianar la tensión, el departamento forestal retiró en silencio el concejo "ofensivo". No obstante, la campaña por la autonomía se ha extendido aun más, exigiendo el registro de las aldeas adivasis bajo el Quinto Registro.

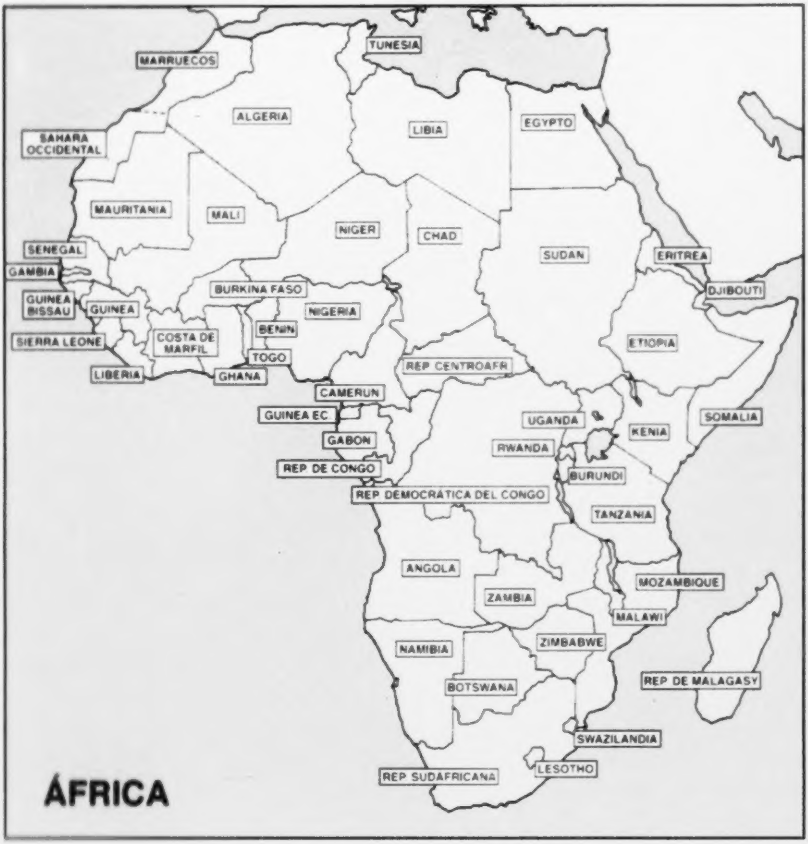
El 14 de diciembre de 1997 en otro cinturón adivasi de Attappadi, en el Distrito de Palakkad de Kerala, los adivasis quemaron los títulos a la tierra presentados a algunos adivasis por el Ministro en Jefe, dos meses antes, no conformes con el hecho de que el título fue otorgado sólo sobre una pequeña porción de la tierra que realmente están usufructuando. El documento del plan de desarrollo del gobierno fue también quemado en protesta, en una acción organizada por Girijan Seva Samithy.

La enmienda de la Ley de Tribus Registradas de Kerala (Restricción de Transferencia de Tierras y Devolución de Tierras Enajenadas) de 1975, que fue aprobada por la Asamblea de Kerala el 23 de septiembre de 1996 y vehemente opuesta por los adivasis (ver El *Mundo Indígena 1996-97*), fue finalmente devuelta por el Presidente de la India sin su aprobación. En efecto, la enmienda había sido rechazada por el Presidente como insostenible y la Ley original sigue vigente si la Asamblea de Kerala no se aventura a promulgar otra enmienda. La Supremea Corte, a la cual se le dio tiempo hasta el 23 de diciembre de 1997 para garantizar que las tierras enajenadas sean recuperadas y devueltas a los adivasis a su vez ha otorgado tiempo al gobierno y el caso va a ser presentado a una audiencia en mayo de 1998. Naturalmente, dilatar aun más la restauración de las tierras enajenadas sólo

intensificará la amargura y la ira de los adivasis al ver que el Gobierno sigue subvertiendo la Constitución.

Durante las recientes elecciones parlamentarias, a pesar de las exigencias de notificar a los poblados o habitaciones adivasis bajo el Quinto Registro, esta demanda no encontró lugar en las promesas de los partidos políticos de los tres estados sureños de Kerala, Tamilnadu y Karnataka.

695



Países regiones tratadas en ésta publicación: Mali, África ecuatorial, Kenia, Tanzania, Botswana, Namibia, Sudáfrica

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696

ÁFRICA

MALI

Retorno de los refugiados

Después de un largo período de resistencia y duda frente a la repatriación, la mayoría de los refugiados *tuareg* retornaron a Mali durante 1997. Como consecuencia del comienzo de la rebelión tuareg en junio de 1990, unos 150.000 tuareg y *moor* huyeron de su país. Los cuatro países que les brindaron asilo fueron Argelia, Burkina Faso, Mauritania y Níger. ACNUR (Alto Comisionado de las Naciones Unidas para los Refugiados) cerró sus oficinas en Mauritania en junio de 1997 y en Burkina Faso en enero de 1998. Quedan todavía unos 3.000 refugiados en Argelia y unos 8.000 en Níger, pero retornarán probablemente durante 1998. Un pequeño número de refugiados optó por permanecer y asentarse en los países de asilo. Aunque los refugiados fueron alentados por representantes estatales a retornar y participar en las elecciones durante una visita a sus campamentos en los países de asilo, una gran parte de los refugiados prefirió esperar y seguir el desarrollo de los acontecimientos desde el exterior. Las elecciones no carecieron de problemas pero tampoco explotó la situación. Muchos refugiados retornaron después de las elecciones. El parlamento aprobó una ley de amnistía, largamente discutida, en 1997. Fue una iniciativa que los refugiados no apreciaron mucho. Desde su punto de vista, todos los que habían causado muertes de civiles deberían ser juzgados, tanto un rebelde tuareg como un soldado nacional.

Un breve resumen de la rebelión tuareg

Después de seis años de conflicto, la rebelión tuareg terminó oficialmente en marzo de 1996 con la ceremonia "Flamme de la Paix" en Timbuctú, en la cual fueron quemadas 3.000 armas. Las causas del conflicto son muchas y complejas. El norte de Mali en general, y la población nómada tuareg en particular, habían sufrido la negligencia y la exclusión de parte de las autoridades estatales. A comienzos de la

rebelión, las acciones militares de los rebeldes tuareg gozaban del apoyo moral de la población civil del norte. Esto se debió a una insatisfacción general con el dictador militar General Moussa Traoré. En marzo de 1991, fue derrocado por un golpe de estado después de meses de manifestaciones públicas en la región sur del país y la rebelión tuareg en la región norte. Un frente unificado de los principales movimientos rebeldes tuareg y moor firmó un tratado de paz llamado "Pacte National" con el gobierno de transición en abril de 1992. El mismo año se instaló el primer gobierno electo democráticamente en la historia de Mali con el presidente Alpha Konaré a la cabeza. Las nuevas autoridades estuvieron oficialmente de acuerdo con el tratado de paz. Pero el conflicto continuó. El nuevo estado democrático se enfrentó a muchos desafíos y tenia dificultad en controlar al ejército que había estado en el poder durante 23 años (1968-1991).

En 1994 el conflicto comenzó a ser peleado bajo una base étnica entre los movimientos armados tuareg y moor por un lado y, por el otro, el movimiento armado *songhay*, establecido para defender a la población sedentaria. Este último movimiento estaba fuertemente influido por el ejército y muchos de sus miembros pertenecían al ejército nacional. En 1995 comenzó un trabajo de reconciliación iniciado por la misma población norteña, junto con ONG y las autoridades. Los diferentes grupos étnicos han coexistido durante siglos beneficiándose mutuamente de las diferencias a través de una variedad de relaciones económicas y culturales. La reconciliación tuvo éxito en el norte de Mali debido probablemente a esta historia común.

Los tuareg en el exilio

Una forma de medir que la paz se consolida cada vez más es el hecho de que miles de refugiados tuareg y moor decidieron finalmente retornar a su pais de origen. Durante el exilio vivieron, en cierto grado, de una forma diferente que la que conocían en Mali. La mayoria de los refugiados se beneficiaron con diferentes tipos de bienes (alimento y artículos domésticos) y actividades de integración. Durante periodos se distribuyeron alimentos en los campamentos de refugiados. En algunos de los campamentos había facilidades sanitarias y educativas;

698

una situación que era en realidad bastante nueva para muchos de los refugiados. Muchos niños tuareg fueron a la escuela por primera vez en los países que les otorgaban asilo. (Esto es particularmente importante porque algunos tuareg sostienen que una de las razones de la rebelión fue la falta de integración de los niños tuareg en el sistema escolar). Se establecieron asociaciones entre las mujeres refugiadas y se iniciaron diferentes tipos de pequeños proyectos empresariales para su beneficio. Pero en general, no cambiaron su estilo de vida nómada. Por ejemplo, en Burkina Faso, una cantidad de refugiados habia podido llevar sus animales con ellos y continuaron en cierta medida su vida nómada. Ellos no fueron instalados en campamentos cerrados, tal como se ve en otras situaciones de refugio.

Las relaciones internas de poder de la comunidad tuareg también sufrieron cambios. Fundamentalmente porque las fracciones se dispersaron y también porque un cierto nivel de educación (la capacidad de hablar, comprender y escribir el francés) se convirtió en una herramienta muy importante para las relaciones con las autoridades locales de los paises que brindaban asilo y también con las organizaciones que trabajaban con los refugiados. Significó que personas que nunca habian sido lideres en Mali obtuvieron una fuerte posición de liderazgo en los paises de asilo. Las posibles implicaciones de este desarrollo no pueden evaluarse en forma inmediata.

La reintegración en el norte de Mali

ACNUR está presente en el norte de Mali y está a cargo de facilitar la reintegración social y económica de los recién retornados refugiados tuareg y moor. ACNUR estima que retornarán a Mali unos 150.000 individuos. La cantidad total estimada de los beneficiarios de las actividades de ACNUR en el norte de Mali es de 300.000. Esto se debe al hecho de que todas las actividades de proyectos no sólo benefician a la población que retornó sino a las comunidades como un todo. La construcción y rehabilitación de pozos de agua, bombas de agua, escuelas, pequeños proyectos empresariales también benefician a los desplazados internos y a aquellos que nunca huyeron.

Es interesante que muchos retornados eligieron nuevos lugares para comenzar su nueva vida en el norte de Mali. Lugares donde nunca habían vivido y donde en realidad, nadie había vivido. Esta opción se debe parcialmente a una superpoblación y a una degradación de los recursos naturales de los lugares donde vivían antes. Otra particularidad es que algunos grupos de refugiados eligieron un lugar cerca de la frontera con el país que les brindó asilo. Se podría describir como un lugar de observación donde permanecerán hasta que sientan más confianza en la estabilidad de la paz. Esto hace que todo el proceso de reintegración sea un desafío muy grande para todos los actores participantes, incluso el estado. No será posible construir pozos de agua, escuelas y clínicas sanitarias en todos los lugares elegidos debido a la falta de recursos financieros. La cantidad de lugares de establecimiento asciende a alrededor de 200.

Las reformas de la tenencia de la tierra representan otro desafío para el estado. Una cierta cantidad de refugiados tenía convenios que databan desde el período colonial que establecían el derecho a explotar áreas de pasturas bien definidas con rebaños de animales.

Las elecciones y el proceso de paz en el norte de Mali

En abril se celebraron elecciones parlamentarias pero fueron disputadas por todos, incluso por el partido en el poder, ADEMA. Consiguientemente, fueron anuladas por la corte constitucional. La elección presidencial de mayo fue realizada con sólo dos candidatos. Otros ocho candidatos de la oposición se negaron a participar como protesta sobre la forma de celebración de las elecciones parlamentarias. Alpha Konaré, presidente desde 1992, fue reelecto por una gran mayoría y un nivel de participación inferior al 30%. Hubo muchos incidentes y muchas manifestaciones. Esto condujo al arresto de cinco políticos de la oposición en el mes de junio. Fueron acusados, entre otras cosas, de disturbio del orden público. Fue en esta atmósfera que se celebraron las elecciones parlamentarias por segunda vez. ADEMA obtuvo una victoria avasallante, logrando 130 escaños de un total de 147. Las manifestaciones continuaron y hubieron varios enfrentamientos entre los manifestantes y las fuerzas policiales. En agosto, un policía fue muer-

to durante una manifestación. Un grupo de diez políticos de la oposición fue arrestado luego. Fueron acusados de ser indirectamente responsables del asesinato. Con su arresto, la oposición perdió su capacidad de movilización. A pesar de la forma en que se celebraron las elecciones, no tuvieron ninguna influencia directa sobre el proceso de paz. En 1998, se celebrarán elecciones locales a nivel comunal.

En general hay paz en el norte de Mali pero incidentes de asaltos y robos de autos han sido una realidad en 1997 y han influido sobre el proceso de paz y reintegración, particularmente en las regiones de Gao y Kidal. En Kidal ocurrieron también enfrentamientos violentos entre dos fracciones tuareg. Las dos fracciones estaban organizadas en dos diferentes movimientos armados durante la rebelión y en determinado momento lucharon en realidad entre ellas. Una fuente de los recientes enfrentamientos puede ser que hombres jóvenes (ex-rebeldes) sólo han sido desmovilizados pero todavia no han sido reintegrados en actividades económicas. También es en esta región del país donde la administración estatal todavía no está completamente extendida.

La cantidad de soldados desmovilizados ha aumentado pero no se ha llegado todavía a los 12.000 previstos en el "Pacte National". 8.500 soldados desmovilizados han recibido su bonificación (una suma de dinero entre 55.000 y 105.000 FCFA, dependiendo de su grado). Pero esta desmovilización no implica necesariamente que se dé a los soldados la oportunidad de dedicarse a actividades económicas.

Los otros acontecimientos preocupantes son la presunta creación de un nuevo movimiento armado ("Union pour l'Unité du Sahara Central") por dos ex líderes del ex movimiento y la misma situación inestable del norte de Niger. Afortunadamente, parece que no tendria las mismas repercusiones en el norte de Mali como en 1990.

La presencia de ACNUR en el norte de Mali y sus actividades expiran a fines de 1998. Es una de las pocas organizaciones presentes en esta región no fácilmente accesible. Es de esperar que otras organizaciones, con un genuino enfoque desarrollista, se hagan presentes y continúen el trabajo necesario para beneficio de la población total del norte de Mali.

ÁFRICA ECUATORIAL

Los twa de Ruanda

En lo que se refiere a la actual situación de los *twa* en Ruanda, no ha habido cambios significativos en su situación marginada, su pobreza y carencia de recursos. El Gobierno Central está aparentemente apoyando a los gobiernos locales en un intento de redistribución de la tierra en forma justa y éticamente neutral, lo cual está aparentemente funcionando razonablemente bien en algunas áreas y es esencialmente un proceso social más que legal, aunque el acuerdo final entre el terrateniente y el gobierno es legalmente ratificado. Sin embargo, los twa están temerosos de entrar en el proceso de distribución de la tierra poniendo sus nombres en una lista, y por lo tanto no se están beneficiando de esta iniciativa.

Las organizaciones twa están preocupadas por la situación de los prisioneros twa, quienes carecen de asistencia legal. Las organizaciones twa han logrado obtener fondos de agencias de cooperación para distribuir semillas, implementos agrícolas y materiales educativos (cuadernos, uniformes escolares) para los twa en las prefecturas más cercanas a Kigali.

El organismo coordinador de las organizaciones twa, CAURWA ("Communauté des Autochtones Rwandais") auspició recientemente una presentación de alfareros twa en una Exposición Comercial Nacional en Kigali. En Ruanda, la alfarería está exclusivamente asociada con los twa, y era el principal medio de subsistencia para los twa fuera del bosque hasta el advenimiento de artículos plásticos, producidos en masa y más baratos. La exposición ayudó a elevar el perfil de los temas y necesidades twa, y parece que la Alta Comisión de Derechos Humanos de la ONU los ayudará a establecer un lugar de exposición/comercialización en Kigali (su último lugar fuera del Hotel Kivoyu fue destruido por las autoridades). CAURWA ha también establecido un pequeño "banco" de cabras para las familias twa del área en torno a Kigali. Han nacido siete cabritos hasta el momento, y las familias se muestran muy positivas con respecto al proyecto.

Aunque la situación del pueblo twa en Ruanda y Burundi constituye todavía una causa importante de preocupación, la mayoría de las

Niños twa mirando una danza en Runda, Kigali (Fotos: Dorothy Jackson).

agencias que trabajan en Kigali están ahora conscientes de la existencia de los twa y de su particular vulnerabilidad, y algunas están trabajando sobre proyectos para asistir a los twa más o menos directamente.

Dentro de poco un individuo twa realizará un internado en el secretariado de la Alianza Internacional de Pueblos Indígenas y Tribales de los Bosques Tropicales. El internado posibilita a los representantes indígenas enterarse sobre las instituciones internacionales, defensa y realización de campañas, obteniendo una capacitación valiosa que beneficiará la organización del interno y de la región cuando él o ella retorne a casa.

Se ha formado un grupo internacional de cooperadores y agencias de ayuda que trabajan con los twa para mejorar el flujo de información y coordinar mejor la ayuda a dicho pueblo. La agencia principal en el Norte es el Programa para los Pueblos del Bosque, con sede en el Reino Unido. En Ruanda, la agencia principal es CAURWA, la cual

actúa como el organismo coordinador para las organizaciones twa y se vinculará con los cooperadores y agencias de Ruanda para mejorar la coordinación localmente.

Los pigmeos que se encuentran cerca del Parque Nacional Kahuzi-Biega están amenazados

El bosque Kahuzi-Biega es parte de la selva ecuatorial del África central. Está ubicado en el sur de Kivu, en el este de la República Democrática del Congo, en el territorio Kabare, unos 25 kilómetros al oeste del pueblo Bukavu. Los *pigmeos* fueron los primeros habitantes del bosque tropical Kahuzi-Biega, el cual fue declarado patrimonio/Parque Nacional en 1970. El gobierno congoleño de ese entonces expulsó por la fuerza a todos los pigmeos que vivían en el bosque sin ninguna remuneración o compensación territorial. Así es como estos pigmeos despojados fueron a asentarse en aldeas que bordean el Parque (Muyange, Cibuga, Combo, Kamakome, Mulangaala, Tshibati, Lushasha, Buhama y Muziku).

Durante el conflicto de Ruanda, la provincia de Kivu recibió miles de refugiados de Ruanda. Algunos de estos refugiados pudieron retornar a su hogar durante la guerra de liberación. Pero los refugiados pertenecientes a la milicia ruandesa (INTERAHAMWE) y a las ex-fuerzas armadas de Ruanda (FAR) del régimen del Presidente Habyarimana permanecieron y se asentaron en el interior del Parque Kahuzi-Biega. Aquí se aliaron con un movimiento de oposición contra los *tutsi* llamado MAI-MAI. Este movimiento está en contra del presente régimen que ha instalado a los llamados *banyamulenge tutsi* en los servicios públicos y les ha dado puestos de responsabilidad en el gobierno central y provincial. Otra misión de MAI-MAI es que la milicia ruandesa y las FAR retornen a Ruanda. Como los dos movimientos no tienen financiación externa, se han convertido en un grupo de bandidos. Entonces, para obtener alimentos y otras necesidades, han saqueado y quemado las pequeñas chozas de los pigmeos que viven en las afueras del Parque. Este saqueo y agresión a su vez provocó una emigración masiva de los pigmeos hacia las aldeas bantúes ubicadas a alguna distancia del Parque. Aquí, más de 250 familias pigmeas están

ahora enfrentando una situación muy difícil pues ya no están en sus propias casas.

Ciertas autoridades acusan a los pigmeos de ser miembros MAI-MAI porque viven muy cerca del bosque. Unas 200 familias pigmeas se han beneficiado de la asistencia -alimentos y otros artículos- a través de la Cruz Roja Internacional, pero entonces intervinieron las autoridades militares, alegando que esta acción ayuda a MAI-MAI. Se necesita urgentemente ayuda. No obstante, a las organizaciones humanitarias internacionales como ACNUR, CARITAS, CRI, no se les permite trabajar en la provincia, al contrario de las organizaciones para el desarrollo como UNICEF, OXFAM, SAVE THE CHILDREN y organizaciones locales.

Movilización de grupos "pigmeos" en Camerún

En Camerún, CODEBABIK ("Comité de Développement des Bakola/Bagyeli des Arrondissements de Bipindi et Kribi") representa aproximadamente a 600 *bakola* (115 familias en 25 campamentos). Su objetivo es ayudar a los bakola a determinar su propio desarrollo y mejorar sus condiciones de vida, contrarrestar la marginación y el prejuicio experimentado por los bakola, proteger sus tierras y lograr que su voz sea escuchada de tal manera que sean aceptados como ciudadanos plenos de Camerún. El trabajo de CODEBABIK se centra en elevar la conciencia a nivel comunitario, facilitar el difícil proceso (pero aparentemente inevitable) de sedentarización y encarar temas como la falta de educación, la desnutrición, el alcoholismo, la dominación por los bantúes, la promoción de la cultura y estilo de vida bakola, la integración de las mujeres y los niños en redes económicas y sociales y proteger su medio ambiente de las compañías madereras. Jacques Ngoun, el Secretario General de CODEBABIK, asistió al Grupo de Trabajo de la ONU en Ginebra, en julio de 1997.

Seminarios sobre pueblos indígenas y bosques en África

El primero de una serie de tres seminarios sobre Pueblos Indígenas y Bosques en África fue celebrado en Accra, Ghana, en octubre de 1997. El seminario reunió a organizaciones de base comunitarias, ONG,

funcionarios gubernamentales y expertos en foresteria para discutir temas claves que afectan a los pueblos del bosque en la región de África Occidental. La reunión destacó la relación entre la falta de democracia, la injusticia social y la degradación del medio ambiente, y tuvo como resultado la Resolución Aburi. Están planeados dos seminarios más para el África Central y el África Oriental, y una conferencia continental está programada para más tarde durante este mismo año.

KENIA

Las elecciones nacionales de diciembre de 1997 tuvieron lugar con la esperada violencia asociada a las mismas. También como se esperaba, el Presidente Moi fue reelecto y KANU formó otro gobierno. Para los pueblos indígenas, muy poco ha cambiado, si es que algo lo ha hecho. A pesar del llamado que hizo el Presidente Moi por más sensibilidad con respecto a las necesidades y aspiraciones de los keniatas en general, es probable que el poder concentrado de la elite política, la continua corrupción, la ineficiencia de las instituciones gubernamentales, y el uso de la violencia como medio de supresión continuarán operando contra los intereses de los pueblos políticamente marginados.

Violencia en la costa

Como preludio a la elección, la violencia irrumpió en la provincia costera, donde quizá murieron hasta 1.000 personas. El baño de sangre comenzó en el pueblo de Likoni, donde gente llamada de "del interior del país" (*wabara*) fue atacada por bandas locales. El origen de los choques se encuentra en la insatisfacción que sienten los pueblos costeros (*digo, giriama y mijikenda*) que han visto sus tierras tradicionales usurpadas por elementos externos para el desarrollo comercial. Sin embargo, la violencia es también ampliamente considerada como motivada políticamente, ya que los choques fueron concentrados en aquellas áreas donde los partidos de oposición ganaron distritos electorales claves en la elección de 1992. El gobierno ha sido acusado de incitar la violencia para dislocar a los votantes opositores y pro-

mover el *majimboismo* (federalismo de base tribal) para crear enclaves de votantes simpatizantes.

Reivindicación endorois llega a la justicia

Este caso surgió de la evicción en 1973 de más de 400 familias *endorois* (subgrupo de la tribu Tugen y parte del grupo Kalenjin) de la Reserva de la Fauna de Lake Bogoria y la enajenación de tierra dentro de lo que era la reserva forestal Mochongoi - ambas consideradas por los endorois como sus tierras ancestrales. En el momento de la evicción, se les prometió compensación financiera o tierras equivalentes en otro lado, y el 25% del ingreso total generado por la Reserva. Después de una solicitud al gobierno en 1989, a los endorois se les permitió un limitado reasentamiento en el bosque Mochongoi, pero la mayor parte de la buena tierra fue usurpada por otros, dejando que ellos ocuparan el restante terreno rocoso y árido.

La pérdida de esta tierra ha afectado en forma adversa a toda la comunidad endorois ya que su ganado ha sufrido a causa de la negativa del acceso a sus pasturas tradicionales. A pesar de los llamados al Presidente, quien también es miembro parlamentario local, y las peticiones al gobierno para corregir la situación, sólo se les pagó como compensación 30.000 chelines keniatas (30 libras esterlinas). Esto llevó a los 43.000 miembros de la comunidad endorois a presentar una demanda contra los Consejos del Municipio de Baringo y Koibatek en la Alta Corte de Nakuru (Nº 214/1997) alegando una verdadera evaluación y compensación por las tierras que perdieron, y por el pago del 25% del ingreso total generado como derechos de entrada a la Reserva de la Fauna Bogoria desde 1973. Queda por verse si Moi contemplará los intereses de su electorado y cumplirá su compromiso público con los keniatas ordinarios, solucionando este caso antes de que vaya a juicio.

Zozobras de la ley de tierras Iloodoriak

Los *maasai* residentes de Iloodoariak no creen que se encuentre una solución legislativa para resolver el problema de la fraudulenta adquisición de su tierra por elementos externos (ver *El Mundo Indígena*

1996-97). A pesar de las garantías oficiales, la propuesta legislación (La Ley de Adjudicación de Tierras (Enmienda) no fue presentada al parlamento antes de las elecciones y se desconoce si el gobierno considerará apropiado incluirla en el próximo programa de asuntos parlamentarios. El problema parece ser que aquellas personas que no tienen interés en ver una solución a este problema, es decir, aquellos conectados con los títulos fraudulentamente adquiridos, también disponen de altos puestos en el gobierno y son capaces de mantener la ley fuera del programa legislativo. En estas circunstancias la comunidad Iloodoariak está todavía realizando campañas para que la ley sea presentada al parlamento, y si todo lo demás falla, están considerando presentar una demanda al gobierno para que la asignación de su tierra sea declarada nula y sin valor y que se les devuelva en administración de tal manera que la misma comunidad pueda determinar quién la ocupa y la usa.

TANZANIA

El año pasado hubo pocas cosas nuevas o malas que afectaran a los pueblos indígenas de Tanzania aparte de los efectos generales de la peor sequía en 40 años en algunas regiones y las inundaciones que las siguieron.

El compromiso del gobierno de eliminar la corrupción recibió un ímpetu por un informe del ex Primer Ministro y Ministro de Justicia, Warioba, en el cual fueron nombrados un ex primer ministro, un ministro del gabinete, seis ex ministros del gabinete y otros altos funcionarios. Esto tuvo un efecto positivo casi inmediato cuando el Ministro de Recursos Naturales y Turismo resignó después de que se hicieron alegatos públicos sobre sus negocios con el Ministro Adjunto de Defensa de los Emiratos Unidos Árabes, cuando emitió permisos en tierras m*aasai*, en un escándalo que fue conocido como "Loliondogate". En otra revelación sobre corrupción en las cortes se admitió que "se escribían sentencias en las calles sin siquiera una audiencia". Esto brinda muy poca confianza a aquellas personas que han presentado demandas en favor de los derechos indígenas a las cortes, sólo para verlas fracasar.

Los derechos de los residentes de Ngorongoro en riesgo

El conflicto entre residentes principalmente maasai y la Autoridad encargada de la administración del Área de Conservación de Ngorongoro (NCA) continúa bajo diferentes perspectivas sobre la forma en que NCA es administrada (ver Charles Lane: Futuro Incierto para los Maasai de Ngorongoro, *Asuntos Indígenas 3/4-97*). Los residentes creen todavía que sus intereses son considerados secundarios frente a los de la fauna y el turismo, y su derecho a la propiedad -incluyendo el derecho a cultivar- está siendo violado. A pesar de las protestas locales, el Plan General de Manejo ha sido finalmente aprobado, lo cual no ha mejorado las relaciones. Es de particular preocupación el plan para volver a imponer la prohibición sobre los cultivos, la cual ha tenido como resultado la inseguridad alimenticia y la desnutrición, particularmente entre los niños.

Las tensiones se exacerbaron recientemente a causa de que la Autoridad estaba planeando adquirir títulos sobre la Tierra de NCA, lo que hace temer a los maasai que pueda otorgar a la Autoridad una base sobre la cual forzar el desalojo de los maasai. También se supo que planeaba mudar la sede administrativa fuera de NCA al pueblo de Karatu, lo cual distanciaría a los administradores aun más de los residentes.

El gobierno está también considerando dividir la región de Arusha en dos; asignando a NCA a una nueva región de Rift Valley que sería dominada por pueblos no-maasai. Los maasai temen que pueda dar origen a nuevos desalojos de sus tierras. Frente a estos acontecimientos, los residentes maasai están haciendo trabajo de "lobby" contra los cambios en la situación legal de sus tierras consuetudinarias y contra los planes para absorber al distrito de Ngorongoro en una nueva región. Al mismo tiempo están buscando asesoramiento legal sobre la reforma de la ley según la cual se administra NCA, con vistas a asegurar que sus derechos sean respetados y que tengan un papel mayor en su futuro manejo.

709

"Zoológico en el 'bush'" en Mkomazi

La Reserva de la Fauna de Mkomazi es el centro de una lucha entre las autoridades gubernamentales responsables por la fauna y organizaciones conservacionistas privadas, y los pueblos, principalmente maasai e *ilparakuyu* que fueron expulsados de la Reserva en 1988. La evicción de entre 5.000 y 10.000 residentes, con 80.000 cabezas de ganado, fue firmemente implementada y no se realizó ninguna previsión para su reasentamiento. Esto causó una severa alteración de la economía local pues el ganado murió y muchas familias fueron forzadas a dejar el área. Aquellos que quedaron tuvieron que lograr una supervivencia en pasturas inadecuadas en una franja estrecha de tierra entre la Reserva y las montañas cercanas. Algunas de las 60.000 personas que hoy viven en torno a la Reserva, creen que tienen derecho al acceso a la tierra que ellos consideran propia, incluso si eso significa que su ganado sea confiscado y tengan que pagar enormes multas por "invadir" la Reserva.

Cuando los llamados al gobierno fallaron, una organización de base comunitaria, Ilaramatak Lorkonerei, presentó la cuestión a la justicia (*Faru Kamunyu y 16 Otros v. El Ministro de Turismo Recursos Naturales y Medio Ambiente y 3 Otros*, Caso Civil No. 33 de 1994 y *Kopera Keuya Kamunyu y 44 Otros v. El Ministro de Turismo Recursos Naturales y Medio Ambiente y 3 Otros*, Caso Civil No. 33 de 1995 - ahora combinados). En el caso que ahora está siendo tratado, los Demandantes sostienen que las evicciones no siguieron el debido proceso legal y son inconstitucionales porque violan sus derechos consuetudinarios a la tierra. A pesar de las protestas internacionales, los intentos de imponer un interdicto judicial y el hecho de que los derechos legales a la Reserva tienen una sentencia pendiente en las cortes, el "Adamson Wildlife Preservation Trust" (R.U.) y el "Tony Fitzjohn/George Adamson African Wildlife Preservation Trust" (EE.UU.) han continuado apoyando la construcción de un santuario de rinocerontes de 17.5 km2 en la Reserva, cercado por una alambrada eléctrica, sobre el cual un líder maasai se refirió como un "zoológico en el 'bush'", e importaron a la Reserva cinco rinocerontes negros de Sudáfrica. Esto constituye una bofetada en la cara a los habitantes locales y va en contra

de una solución negociada para la demanda del pueblo a la Reserva. También exacerba los intereses implicados en el conflicto y hace que una sentencia en favor de los habitantes locales sea sumamente difícil de implementar.

BOTSWANA

La Reserva de la Fauna del Kalahari Central (CKGR)

El traslado de una gran parte de los habitantes fuera de la Reserva de la Fauna del Kalahari Central ilustra la incómoda relación entre el gobierno de Botswana y su minoría indígena. El gobierno alega que la Reserva de la Fauna de 52.000 kilómetros cuadrados (establecida en 1961 como una reserva para seres humanos y fauna) no puede sostener al mismo tiempo a una población indígena y a la fauna, y, además, que el estado no tiene los medios para brindar servicios básicos a una población que vive en partes tan remotas. Las propuestas de reasentamiento se enfrentaron a vehementes protestas de los habitantes de la CKGR y también atrajeron la atención internacional cuando la organización el Primer Pueblo del Kalahari presentó la cuestión en Ginebra.

Sin embargo, en medio de solemnes declaraciones de que nadie tendría que trasladarse contra su voluntad, unas 600 personas de !Xade, el poblado mayor, fueron trasladadas en mayo de 1997, y luego otras personas se han ido de algunos de los otros poblados menores.

En un sentido literal, el traslado no ha sido forzoso. Botswana se enorgullece de su reputación de ser una democracia liberal con un buen registro en cuanto a los temas de los derechos humanos, y el gobierno es firme en que todos los traslados son voluntarios. Los informes muestran que no se ha usado violencia para lograr que la gente se trasladara. No obstante, los informes también confirman severos casos de coerción: a las personas se les acercó individualmente, se les prometieron servicios y compensación monetaria y en especie si se trasladaban, y al mismo tiempo se les hizo comprender que no habría seguridad ni parte en el desarrollo para aquellos que eligieran permanecer. Una población desesperadamente pobre recibe una opción entre dos alternativas igualmente poco atractivas, y ha abandonado su antigua tierra con gran pena. Tal como era de prever, la compensación

individual pagada en dinero ha desaparecido rápidamente en artículos de consumo y alcohol, y los servicios públicos en el nuevo lugar de

Chozas temporarias en el nuevo asentamiento de Nueva !Xade, agosto de 1997 (Foto: Christian Erni).

asentamiento (Nueva !Xhade) han llegado en forma muy lenta.

La necesidad de diálogo

La polémica de la Reserva de la Fauna del Kalahari Central prueba la necesidad de que las organizaciones puedan representar adecuadamente los intereses y puntos de vista de los indígenas, y la importancia de que los gobiernos reconozcan dichas organizaciones. Hasta el momento, el gobierno no ha hecho mucho por facilitar un diálogo.

En junio de 1997, el Primer Pueblo del Kalahari (FPK) se reunió con representantes de las comunidades ubicadas dentro de la reserva y

se formó un Equipo Negociador, consistente de dos representantes de cada poblado, representantes de las tres organizaciones b*osquimanas* de Botswana, y algunos representantes sin voto de ONG locales simpatizantes. Se envió una carta al Ministerio de Gobierno Local, Tierra y Vivienda, solicitando respetuosamente una reunión con el Ministerio para discutir cómo se podría establecer un diálogo sobre la cuestión de los derechos territoriales. Suponiendo que dicho diálogo insumiría un largo tiempo, se solicitó al ministerio que mientras tanto acordara lo siguiente:

1. Una moratoria de todos los traslados de la CKGR hasta que la reivindicación de tierras haya sido resuelta;
2. Que los servicios existentes para las aldeas sean mantenidos hasta que se logre un acuerdo, o la cuestión sea resuelta de otro modo;
3. Los aldeanos residentes en la CKGR tendrán acceso a oportunidades de desarrollo complementarias a los propósitos por los cuales la reserva fue establecida pero por otro lado equivalentes a las de aquellas comunidades *san* que viven fuera de la reserva, al haber una resolución pendiente sobre la reivindicación de tierras;
4. El Equipo Negociador, y en particular el Comité de la CKGR serán considerados por el gobierno como los auténticos representantes de los residentes san de la CKGR;
5. El Gobierno no se comunicará directamente con residentes individuales de la CKGR, sino canalizará toda la comunicación a través del FPK, y los asesores del equipo...;
6. El Gobierno revelará toda la información (y suministrará copias de la documentación cuando la misma exista) relevante a su política de traslados, y a aquellos residentes que han sido trasladados desde diciembre de 1996;
7. Se acordará un cronograma mediante el cual las partes se esforzarán para resolver la reivindicación de tierras (Carta del FPK y el Comité de la CKGR, 8 de julio de 1997).

Estas solicitudes fueron el resultado de un adecuado proceso de debate y diálogo entre las personas involucradas, y ofrecen una base razonable para la discusión y las subsecuentes negociaciones con el gobierno. Los procedimientos, según las líneas indicadas, son ahora comu-

nes en la mayoría de los países democráticos en el trato con las minorías indígenas. Los observadores en Botswana han notado con gran respeto que la gente involucrada ha sido capaz de organizarse en un Equipo Negociador dispuesto a conversar con su gobierno. Lo que hace muy notable que el Ministerio en cuestión simplemente ignoró la carta, y continuó su política de coerción. Además, como destacaron muchos observadores, el traslado de todos los habitantes locales fuera de la Reserva de la Fauna contradice la política turística del gobierno, la cual pone énfasis en el ecoturismo y la participación de la población local en el manejo de la fauna.

La situación para los habitantes del Kalahari Central ha introducido un sentido de urgencia a las cuestiones planteadas por el Primer Pueblo del Kalahari, e hizo necesario concentrar sus modestos recursos y personal en el tema del reasentamiento, a expensas de otros objetivos que el FPK se había establecido. Inevitablemente, causó una demora en la movilización práctica dirigida hacia el establecimiento de un concejo representativo nacional.

En febrero de 1998 se celebró un nuevo seminario para reunir a los miembros del Equipo Negociador y el FPK para volver a evaluar la situación de la reivindicación de tierras de la CKGR. El seminario discutió nuevas estrategias para lograr un diálogo con el gobierno de Botswana y consideró posibles acciones legales y acción directa. Después de haber publicado un informe de prensa expresando sus preocupaciones, y a través de la mediación del Centro de Derechos Humanos de Botswana, se estableció un contacto y el Equipo Negociador, encabezado por Mathambo Ngakayeaja y Roy Sesana se reunieron con el presidente saliente el 24 de marzo. El resultado más tangible fue que el Ministerio de Gobierno Local se disculpó por haber ignorado la comunicación previa, y se prometió una reunión adecuada con el Ministerio.

Un paso atrás

Mientras que se debatían los problemas de la CKGR, los periódicos informaban que "Los británicos prometen ofrecer una solución al problema *basarwa*". Los antecedentes eran una oferta del Alto Comisio-

nado Británico para convocar una conferencia sobre la pobreza, suponiendo que este era el problema mayor de los basarwa. La propuesta fue considerada por las organizaciones san como un paso atrás comparada con la Conferencia Regional San, la cual tuvo como anfitrión al gobierno en Gaborone en 1993, y que obtuvo promesas de consultas con los representantes san, las cuales todavía esperan ser cumplidas. La propuesta británica se suscribe a la política oficial de Desarrollo de Áreas Remotas, la cual implica encarar a los habitantes de las áreas marginales sólo en su calidad de pobres y en su necesidad de bienestar, no considerando las considerables diferencias culturales y la enraizada estratificación social entre los san y los grupos mayoritarios de habla bantú. El Primer Pueblo del Kalahari y el Fondo de Desarrollo Kuru expresaron ambos un considerable agravio frente a la planificación de otra conferencia de arriba-abajo que no encara los problemas tal como los san los perciben ellos mismos, y en el momento actual no queda completamente claro si el plan de un seminario RAD se llevará adelante.

WIMSA/Botswana y el Fondo de Desarrollo Kuru

La rama de Botswana del Grupo de Trabajo para Pueblos Indígenas (WIMSA), una organización unificadora regional con una oficina central en Windhoek, está colaborando con el Fondo de Desarrollo Kuru para continuar con el desarrollo de un *Programa de Desarrollo Rural de Propiedad Comunitaria*. El programa incluye a organizaciones locales comunitarias independien tes de todo el Distrito de Ghanzi, y está siendo ahora extendido a la parte noroccidental de Botswana, con un nuevo punto de contacto en Shakawe.

NAMIBIA

Los ju/'hoansi de Nyae Nyae (san, bosquimanos, !kung)

Los *ju/'hoansi*, unos 3.000 individuos que residen en el área de Nyae Nyae, son una población de antiguos cazadores-recolectores de habla *khoisan*. Tienen una economía mixta, combinando la recolección y la caza de subsistencia con la producción ganadera, una agricultura de tierras áridas a pequeña escala, manufactura de artesanía, y una pe-

queña proporción de trabajo asalariado. La gente del área de Nyae Nyae todavía explota una amplia variedad de recursos, incluyendo más de 120 especies de plantas comestibles y docenas de especies mamíferas grandes y pequeñas. La caza se realiza con armas tradicionales (arcos y flechas envenenadas, lanzas y garrotes) y la recolección de las plantas silvestres se realiza en forma manual o con la ayuda de un palo para cavar.

Tradicionalmente, los ju/'hoansi estaban organizados como grupos de individuos centrados en los recursos de un n*!ore*, la palabra ju/'hoansi que significa "el lugar donde uno pertenece",y son sustentados por los mismos. Hoy hay unas 32 comunidades descentralizadas en Nyae Nyae, cada una con una fuente de agua, usualmente un pozo con un molino de viento, corrales para proteger su limitada cantidad de ganado, y pequeñas parcelas agrícolas y/o huertas. Las comunidades varían en tamaño de una docena de personas hasta 150.

Los recursos de un n!ore, incluyendo el agua, los animales pequeños y los alimentos silvestres, son compartidos por un grupo de familia extendida que es encabezado por un n!ore k*xao*, o un "administrador de recursos". El n!ore kxao es elegido por los miembros del grupo entre sus ancianos y puede ser un hombre o una mujer. Algunos recursos son considerados como "comunes" y dos o más n!oresi pueden disponer de una parte de los mismos recursos. En este caso, la toma de decisiones se realiza conjuntamente por los n!ore kxaosi pertinentes. Toda la caza es considerada de propiedad común, como también las aguadas naturales, y algunos alimentos silvestres, incluyendo las nueces *mangetti*, *marula*, y los granos *morama*.

El objetivo principal de la Cooperativa de los Agricultores Nyae Nyae (NNFC), la organización de base comunitaria que representa a los ju/'hoansi de Nyae Nyae (ex Bushmanland Oriental), es asegurar los derechos territoriales y mejorar la calidad de vida de los ju/'hoansi a través de diversos medios, incluyendo el manejo y la utilización sustentable de los recursos naturales, el aumento de la producción y del ingreso.

Durante los últimos 12 años, en sociedad con la Fundación de Desarrollo Nyae Nyae de Namibia (NNDFN), una ONG que fue establecida para apoyar, asesorar y facilitar la capacitación, NNFC ha imple-

mentado un programa integrado de desarrollo rural (IRDP). El principal objetivo del IRDP es que Nyae Nyae se convierta en económicamente independiente de la ayuda externa. Esto significa que el personal necesita capacitación y desarrollo de habilidades en los diversos aspectos de sus trabajos para implementar proyectos sustentables. Durante el año pasado, todos los proyectos han estado orientados a ser autosuficientes, lo cual significa un cambio de la idea de un proyecto financiado externamente a un pequeño negocio viable que pueda cubrir los costos para realizar los proyectos y asegurar que la gente tenga la capacidad para administrar estos negocios.

Actualmente, NNFC está manejando cinco proyectos principales, y todos ellos tienen un fuerte componente de capacitación, con el principal objetivo centrado en la autosuficiencia y la sustentabilidad, a saber:

1. Generación de ingresos - El objetivo principal es generar ingreso para y dentro de la comunidad de Nyae Nyae para aumentar la autosuficiencia. El proyecto está dividido en 2 partes:

   a. Actividades artesanales/comerciales: comercialización de artesanías en las aldeas, realizado en conjunción con un dispensario móvil que dispone de alimentos básicos;

   b. Turismo - el proyecto de turismo está investigando el potencial turístico, la viabilidad y diversas opciones en las cuales podrían comprometerse las comunidades ju/'hoansi.

2. Proyecto de Escuelas Aldeanas - El objetivo principal es que los niños de Nyae Nyae tengan acceso a la educación durante los tres primeros años en su lengua materna (ju/'hoansi). Se han establecido 5 escuelas aldeanas en Nyae Nyae. La meta principal ha sido la capacitación de estudiantes de magisterio de habla ju/'hoansi, y la elaboración de material educativo en ju/'hoansi y en inglés. Las escuelas fueron registradas como escuelas semi-privadas, con la idea de que las escuelas queden, en el futuro, bajo los auspicios y la responsabilidad del Ministerio de Educación Básica y Cultura.

3. Taller técnico - El objetivo principal del taller es poder mantener los existentes sistemas técnicos de Nyae Nyae, y transformarse en un ne-

gocio viable que ofrezca servicios técnicos a otros pueblos y organizaciones. La capacitación incluye lo siguiente: mantenimiento y reparación de vehículos, mantenimiento de los pozos incluyendo las bombas que funcionan basándose en energía solar, fabricación de metal y madera, y diversos aspectos relativos a la administración de pequeños negocios.

4. Desarrollo Institucional - El principal objetivo ha sido fortalecer la capacidad institucional de NNFC. La Administración de NNFC, el Consejo Administrativo y el personal recibieron capacitación para administrar una organización efectiva, incluyendo el manejo de personal, comunicación y administración de programas/empresas.

5. Manejo de Recursos Naturales de Base Comunitaria - Monitorea y maneja los recursos naturales, agricultura de nivel de subsistencia, y capacitación de vigilantes comunitarios. El objetivo principal es aumentar la producción de alimentos y del ingreso, lo cual resultará en una mejor calidad de vida para la comunidad a través del manejo y uso sustentable de los recursos naturales.

Nyae Nyae es una de las restantes áreas comunales de Namibia que contiene una fauna abundante y sitios de turismo potenciales. Históricamente, las comunidades que viven en las áreas comunales no podían beneficiarse de la fauna, que destruía algunas de sus cosechas, y compartía los magros recursos con el ganado. El 4 de junio de 1996, el Parlamento de Namibia promulgó una Ley de Legislación de la Conservación, permitiendo la formación de zonas de conservación en áreas comunales. Esto otorgará a las comunidades que viven en las áreas comunales el derecho a utilizar la fauna mediante la formación de los consejos de conservación y de la fauna, lo cual facilitará el retorno a la comunidad de los beneficios económicos y sociales derivados del manejo sustentable de los recursos naturales.

La comunidad de Nyae Nyae decidió solicitar una zona de conservación para toda el área, la cual fue otorgada en febrero de 1998. La zona de conservación de Nyae Nyae fue la primera zona de conservación registrada de Namibia.

Más de 620 adultos, con el potencial de más de 100 individuos adicionales, han sido registrados en la Conservación de Nyae Nyae. El área de la Conservación de Nyae Nyae es sólo el 14 por ciento de lo que el territorio ancestral ju/'hoansi era antes de 1950.

Esta pérdida de territorio tuvo un serio impacto sobre la capacidad de los jo/'hoansi para subsistir solamente de la caza y la recolección. El área y los recursos disponibles no pueden sostener sustentablemente a la actual población. Además, la integración de los ju/'hoansi a la economía general creó una necesidad de dinero efectivo. Como resultado, cualquier plan para mejorar el bienestar de los habitantes locales al mismo tiempo que se usan los recursos sustentablemente, estará basado en un sistema de producción diversificado - que combine la fauna, el turismo, la ganadería, la agricultura, y la generación de ingresos (p.ej., la producción de artesanía).

La Conservación de Nyae Nyae tiene un tamaño de más de 9.000 km2 y está ubicada dentro de la zona ecológica semi-árida, con una precipitación anual de entre 300 y 500 mm. La vegetación es altamente variable en toda la Conservación de Nyae Nyae, reflejando los distintos modelos de suelos. Abarca desde pasturas hasta sabanas de arbustos y ocasionalmente sabanas arboladas. Está caracterizada por un sistema de hondonadas y depresiones estacionales, especialmente en el sur, que es único en el área del Kalahari. En años de buenas precipitaciones, las hondonadas y las grandes áreas de greda son inundadas, atrayendo a una gran cantidad de aves acuáticas y zancudas, incluyendo a flamencos y pelícanos, en los meses de invierno. Cuando las hondonadas están llenas también se encuentran las amenazadas garzas barbudas, agachadizas y el raro airón pizarreño y muchas aves migrantes de Europa.

El área es el hogar de una cantidad de especies animales que son raras o están amenazadas en Namibia o en todo el continente africano. El elefante, el perro salvaje, el leopardo y el ruano se encuentran entre las especies claves. También hay leones, guepardos, jirafas, gnúes azules, antílopes sudafricanos rojos (hartebeest), cabras, órix, kudu y avestruces. Queda un rebaño de 30 búfalos que fue separado de su ruta migratoria al Delta del Okavango en la vecina Botswana cuando se erigió el cerco fronterizo. Los recursos animales están agotados y de-

sequilibrados en términos de cantidad y especies; mientras se encuentran sólo pequeñas cantidades de búfalos, jirafas, ruanos y leones, las poblaciones de elefantes, hienas y leopardos son altas.

Los objetivos generales de la Conservación Nyae Nyae son:

- restaurar, manejar sustentablemente y utilizar la fauna del área para el beneficio de las generaciones actuales y futuras y para mantener la biodiversidad de Namibia, y
- promover el bienestar económico y social de los miembros de la conservación mediante la equitativa distribución de los beneficios generados a través de la explotación consumista y no-consumista de la fauna.

NNFC se enfrentará a una tarea desafiante durante los próximos años que consiste en el manejo de los cinco proyectos y el desarrollo de los mismos en negocios viables (con la excepción del proyecto educativo) y el desarrollo de la Conservación Nyae Nyae para que la comunidad ju/'hoansi se beneficie de todos estos proyectos e iniciativas en tal medida que NNFC no dependa más de la ayuda externa y sea una organización, autosuficiente, con confianza en sí misma y económicamente viable.

La oposición del pueblo himba a la Represa de Epupa

Los *himba* continúan su lucha contra la construcción de una represa hidroeléctrica en el Río Cunene. Los himba se siente ignorados por sus gobiernos y están siendo cada vez más marginados por los actuales acontecimientos políticos. La construcción de la planeada represa hidroeléctrica inundaría gran parte de la tierra donde viven los himba, implicando fatales consecuencias para la vida cultural, económica y social de los mismos.

Los himba suman entre 5.000 y 7.000 individuos y viven en ambas márgenes del Río Cunene, en Namibia noroccidental y la vecina Angola. Es un pueblo pastor nómada que durante siglos se ha adaptado a las arduas condiciones de la región, el terreno árido y montañoso donde la pluviosidad es sumamente imprevisible. El equilibrio ecológico es sumamente delicado, y el ecosistema no puede tolerar una gran

presión. Los himba son económicamente independientes, pero su estilo de vida requiere que sean capaces de trasladarse por grandes áreas para poder encontrar suficiente tierra de pastura y agua para el ganado. Alrededor del 75% de las familias himba se dedican a algún tipo de actividad agrícola durante el curso del año para producir alimentos suplementarios, siendo los suelos aluviales a lo largo del Cunene un lugar excelente para el establecimiento de huertas. El Cunene, de 1.050 km de largo, es el único río de la región que tiene agua durante todo el año.

Los himba han preservado sus ricas tradiciones y su patrimonio cultural y están sólo marginalmente involucrados en la economía de mercado. Pero los himba, igual que otros pueblos de la región, están políticamente marginados. Han sido excluidos del proceso político concerniente a los planes de desarrollo regional. La población local no tiene acceso a la educación, y, por lo tanto, la mayoría es analfabeta, y sólo muy pocos hablan inglés, el idioma nacional.

Como muchos otros pueblos indígenas, están actualmente afectados por los proyectos de desarrollo del estado nacional. La demanda de electricidad de Namibia está aumentando tanto para el consumo hogareño como para la industria minera. Y Namibia quiere ser independiente a este respecto del ex poder colonial, Sudáfrica. La idea de construir una represa hidroeléctrica en el río Cunene ha existido desde que Namibia logró su independencia en 1990. Desde 1995, un equipo de consultores ha estado realizado un estudio de factibilidad sobre la posibilidad de construir una represa en las cataratas de Epupa. El estudio debía analizar los aspectos técnicos, económicos, ecológicos y sociales de la construcción de una represa hidroeléctrica y evaluar fuentes alternativas de energía. Está siendo realizado por un consorcio consistente del gobierno de Namibia, Burmeister & Partners, Angola Norconsult, Noruega, y Swedpower, Suecia. El proyecto ha sido financiado por la Agencia Internacional para el Desarrollo Sueca (SIDA) y la Agencia Noruega para la Cooperación para el Desarrollo (NORAD). Se investigan dos alternativas: la alternativa Baynes, ubicada cuatro millas río abajo de las cataratas de Epupa con un área de embalse de 50 kilómetros cuadrados; y la alternativa preferida por el gobierno, con un área de embalse de 380 kilómetros cuadrados. Se estima

que ambas alternativas producirán 300 MW de electricidad, lo cual cubre el actual consumo nacional de 280 MW.

No obstante, el estudio de factibilidad ya ha sido severamente criticado. La crítica sostiene, entre otras cosas, que:

- el gobierno de Namibia ya ha decidido construir una represa, y por lo tanto, el dinero de la ayuda para el desarrollo debería haber sido usado para otra cosa en vez de un estudio de factibilidad;
- el estudio no investigó seriamente fuentes de energía alternativa;
- las represas hidroeléctricas a gran escala no son fuentes sustentables de energía;
- no han sido realizados estudios adecuados en el lado angoleño;
- no ha existido una comunicación adecuada o consulta entre el gobierno, los consultantes y los habitantes locales. Se sienten ignorados por el gobierno con respecto a los programas de desarrollo de la región;
- al financiar el estudio de factibilidad se legitima al polémico pre-estudio de factibilidad;
- SIDA y NORAD legitiman la construcción de una represa al financiar el estudio de factibilidad;
- es cuestionable si el dinero de la cooperación debiese ser usado para un proyecto que marginará a gente ya abandonada.

Las consecuencias para el pueblo himba

Los himba no tienen una posición unificada. Hay algunos de ellos que consideran que la represa constituye un desarrollo positivo para la región. Es principal y fundamentalmente la generación más joven que señala las oportunidades laborales, y los comerciantes que anticipan un aumento de los negocios. Pero la mayoría de los himba se oponen a la construcción de una represa. Piensan que no tienen necesidad de electricidad y prefieren continuar con su estilo tradicional de vida.

Una represa no sólo inundará sus campos, que son de gran importancia durante la estación seca, sino también importantes sitios de culto, incluyendo cementerios ancestrales donde van a consultar con sus ancestros. Una represa tiene también otras consecuencias negativas potenciales como la presencia de trabajadores de la construcción,

caminos, nuevos poblados y una comercialización que todavía no existe hoy y es completamente extraña a la región.

No existe indicación sobre cómo los himba serán compensados exactamente si esto ocurriera y dónde se encontrarían tierras alternativas dada la grave escasez de tierra productiva en la región. Pero la experiencia internacional ha demostrado en otras partes del mundo donde se han implementado tales proyectos, que la reubicación de la gente siempre ha conducido a su empobrecimiento. La reubicación forzada no tiene en cuenta la enorme pérdida espiritual y emocional que la gente sufre cuando es forzada a abandonar su tierra ancestral.

Resistencia

El sentimiento de impotencia de los himba que se oponen a la represa llegó a su culminación cuando el vice ministro de energía y minas de Namibia, Jesaya Nyamin, realizó una declaración pública en marzo de 1997, declarando que ya se habia decidido construir una represa, y que el estudio de factibilidad sólo serviría de ayuda para decidir cual alternativa elegir. Y el Presidente Sam Nujoma indicó, en agosto de 1997, que Namibia construirá la represa sin importar lo que el estudio recomiende, argumentando que: *"El Gobierno no será detenido por las desviadas actividades de aquellos que quieren impedir el desarrollo económico y la elevación de los niveles de vida de nuestro pueblo."*

La oposición convocó a una reunión y formó una comisión, el Comité Epupa/Kaoko (EKC). El EKC nombró una delegación que hizo una gira por Europa para buscar apoyo para detener la construcción de la represa. Se eligió a Europa porque el gobierno de Namibia declaró que de allí provendría la financiación de la represa.

La delegación estaba compuesta por Hikumene Kapika, jefe de la regió de Epupa, Paulus Tjavara, jefe de los himba de Namibia y una traductora. Los himba piensan que es de gran importancia que el mundo sea consciente de su situación y de las consecuencias de construir una represa. Durante la visita de tres semanas a Europa fueron a Alemania, el Reino Unido, Bélgica, Noruega y Suecia, lo cual fue posible

¿Un futuro con la represa? Joven himba de Namibia (Foto: Mark Hakansson).

724

gracias a la cooperación entre varias organizaciones internacionales que trabajan con los derechos humanos y el medio ambiente.

El objetivo de la visita era dar a los representantes himba la oportunidad de hablar por sí mismos y presentar sus opiniones; que fueran capaces de influir sobre los procesos que están amenazando actualmente a ellos y a su futuro; así como también tener la posibilidad de formar una opinión en un estadio temprano, antes de que las decisiones reales fueran tomadas. Al mismo tiempo, la delegación obtuvo una mejor comprensión y conocimiento sobre la nueva situación cuando se vieron forzados a hacerlo. La visita a Suecia fue informada en la radio, la televisión y los periódicos; la prensa de Namibia escribió diariamente sobre la visita de la delegación a Europa. A los himba se les prometió el acceso a toda la información y que su posición sería incluida en el informe final. SIDA el Banco Mundial y la Unión Europea han rechazado la financiación de la construcción de la represa.

En el verano de 1997, 70 representantes himba se reunieron con su asesor legal, el Centro de Asistencia Legal, para discutir el proyecto, lo cual ocasionó un asalto de la policía. Las fuerzas policiales de Namibia y la policía de seguridad, armadas con armas automáticas, irrumpieron en la consulta privada. La policía basó su acción en la proclama AG 23 e impidió a los himba celebrar la reunión. Hikumene Kapika se dirigió a la Suprema Corte de Namibia, donde sus derechos fueron reconocidos y se le otorgó indemnización por el asalto policial. SWAPO, el actual partido de gobierno de Namibia, fue seriamente criticado por todas las partes, y los partidos de oposición han acusado al gobierno de tratamiento antidemocrático de los himba.

En contraste, los himba que están en favor de la represa no han tenido ninguna dificultad en ser oídos y lograr que sus puntos de vista fueran conocidos en los corredores del poder. Es lamentable que las autoridades estén actuando de una forma tan parcial, tratando de excluir a la gran mayoría de los himba que están contra el proyecto de represa. Para asegurar los derechos y necesidades de todas las partes, es necesario un diálogo abierto en el cual todas las partes puedan participar para discutir el desarrollo de la región.

SUDÁFRICA

En Sudáfrica se estableció el Foro Nacional Grigua para promover las demandas del pueblo *grigua* a ser reconocido como grupo indígena y para impulsar sus reivindicaciones sobre tierras ancestrales. Mientras tanto, el Departamento de Asuntos Constitucionales está planeando un seminario nacional para establecer un foro para todos los grupos indígenas de Sudáfrica. Ese foro asistiría entonces al desarrollo de una política nacional relativa a los asuntos indígenas.

Mientras tanto, el pueblo k*homani* de Kagga-Kamma ha sido reasentado en tierras ancestrales en el norte de la Provincia del Cabo con la asistencia de Departamento de Asuntos Rurales.

El destino de las comunidades *!xu* y *khwe* de Schmidtsdrift es más variado. Poco después de que solicitaron Platfontein, una granja cercana a Kimberley, para su reasentamiento, el Gobierno Provincial de la Provincia del Norte del Cabo puso una moratoria a la urbanización de Platfontein. No se dieron razones por esta medida. Después de prolongadas y frustrantes negociaciones, se levantó la moratoria y se llegó a un acuerdo con el Gobierno Provincial para urbanizar la tierra.

No obstante, desde la firma del acuerdo no se ha realizado ningún progreso tangible. La demora del reasentamiento de las comunidades es muy costosa para las mismas, en términos de frustración y tensión emocional, y también financieramente, debido al aumento de los costos de urbanización. Hoy, unos dieciocho meses después de que las comunidades compraron la tierra, todavía están en Semidtsdrift, viviendo en tiendas de campaña que se caen a pedazos después de ocho años. Con el anticipo de las casas permanentes a ser construidas en Platfontein, en el mejor de los casos dentro de doce meses, no es probable que las tiendas de campaña sean reemplazadas.

La desagradable experiencia con el Gobierno Provincial también tiene un efecto sobre los patrocinadores internacionales, quienes están preocupados de comprometerse en proyectos de financiación. Por esta razón, el proyecto de mediación cultural tuvo que ser interrumpido, y ahora está pendiente de la financiación internacional. Esto significa que tuvo que suspenderse la tan necesitada capacitación para permitir

que las comunidades enfrenten los desafíos de adaptarse a un nuevo entorno cerca de un área urbana.

Afortunadamente, continúan algunos de los proyectos de desarrollo de Platfontein, aunque su continuación está plagada de dificultades debido a que las comunidades no están presentes para obtener el sentimiento de ser dueños de la tierra. Los proyectos de cría de ganado y animales salvajes están progresando y se autofinancian. Las regalías recibidas por concepto de actividades mineras en la granja, aseguran que puedan ser cubiertos los costos mensuales de mantenimiento de los proyectos sociales y también los costos administrativos de la Asociación de Propiedad Comunal.

Las comunidades están fortaleciendo sus vínculos con WIMSA y están también participando activamente en el establecimiento de un foro nacional para grupos indígenas en Sudáfrica.

727

PARTE II

TEMAS DE MUJERES INDÍGENAS

LA PRIMERA CONFERENCIA AFRICANA DE MUJERES INDÍGENAS: COMPARTIENDO EL CONOCIMIENTO, LA EXPERIENCIA Y LA FUERZA

Del 20 al 24 de abril de 1998, se celebró la Primera Conferencia Africana de Mujeres Indígenas (FAIWC) en Agadir, Marruecos. Una reunión en la que pudieron participar 36 de las 43 mujeres indígenas invitadas del Norte, Sur, Este y Oeste de África. Fue la primera vez en la historia que mujeres indígenas africanas se reunieron a compartir su conocimiento, experiencia y fuerza. Las discusiones e intercambios de experiencias y estrategias sirvieron de base para despertar la conciencia de su propia situación como indígenas. Les brindó la posibilidad de explorar las similitudes y diferencias colectivamente con otras mujeres indígenas. A través de esto pudieron determinar las conexiones a una escala mayor, con respecto a su posición en su propia comunidad así como dentro de la sociedad dominante. Como consecuencia, se discutieron las soluciones de los problemas y estrategias para el futuro, resultando así en el fortalecimiento, tanto de la posición de las mujeres indígenas como de los pueblos indígenas.

Las mujeres indígenas de África en una perspectiva mundial

La situación de las mujeres indígenas está en la encrucijada entre dos temas importantes: los derechos humanos y los derechos de la mujer.

En ambos campos, hay importantes movimientos sociales que luchan activamente por cambios reales. El interés internacional en estos temas, y el éxito de los movimientos quedan demostrados a través de las conferencias mundiales recientemente celebradas como La Conferencia Mundial sobre Derechos Humanos, Viena, 1993; la Cumbre Económica y Social de la ONU, Copenhague, 1995; y la Cuarta Conferencia Mundial de la Mujer, Pequín, también celebrada en 1995. Durante la conferencia últimamente mencionada, hubo una reunión especial de mujeres indígenas. Sin embargo, en la lista final de signatarios de "La Declaración de las Mujeres Indígenas" presentada durante la conferencia, no había listada ninguna mujer indígena africana.

Incluso en reuniones focalizadas especialmente en los pueblos indígenas, como el Grupo de Trabajo de la ONU sobre Poblaciones indígenas celebrado anualmente en Ginebra, la participación femenina dentro de las delegaciones africanas constituye sólo una pequeña minoría (en 1995 la relación entre mujeres y hombres era de 3:30, en 1997 de 7:42). En dos conferencias internacionales sobre las mujeres indígenas, celebrada en 1988 en Adelaide, Australia y en 1990 en Karasjohka, Noruega, respectivamente, no había en la lista ni una sola representante africana.

La invisibilidad de las mujeres indígenas de África en las antes mencionadas conferencias señala el hecho de que estas mujeres no tienen la posibilidad de formular sus intereses y puntos de vista a nivel internacional.

En general, los pueblos indígenas de todo el mundo se encuentran en una posición marginal dentro de los países que habitan. Se encuentran aislados de muchas maneras. Aunque estos obstáculos son comunes a todas las organizaciones indígenas de África, se aplican bloqueos adicionales a las mujeres a causa de su posición dentro de la comunidad indígena y a su posición de mujeres en la sociedad dominante en general.

La Primera Conferencia Africana de Mujeres Indígenas, celebrada en el quinto año del "Decenio Internacional de los Pueblos Indígenas del Mundo" (1994-2003), estableció el objetivo de romper el aislamiento de las mujeres indígenas de África. El proyecto fue basado en la presunción de que las mujeres en cuestión, así como sus organizaciones, serán más capaces de desarrollar y formular colectivamente sus intereses y puntos de vista. Esta posición está sostenida por el hecho de que casi todas las organizaciones de pueblos indígenas tienen una historia de acción colectiva y fuerte interés en los contactos mutuos. Esto es especialmente cierto para las organizaciones de mujeres. Los resultados de las conferencias internacionales de los años recientes fueron posibles de hecho por estas acciones colectivas y cooperaciones internacionales.

730

Temas de la conferencia

Las consultas con las organizaciones indígenas africanas, que formaron la base de la conferencia, sacaron a luz dos temas, determinados así como los temas principales. Estos dos temas formaron la estructura, dentro de la cual las participantes de la FAIWC compartieron sus experiencias y puntos de vista entre ellas. Los temas son:

1. El papel de las mujeres indígenas como custodias de la propiedad cultural e intelectual de su pueblo, y

2. La violencia contra las mujeres indígenas.

Estos son los temas que prácticamente todas las mujeres indígenas han experimentado y que juegan un importante papel en sus vidas.

Además, se organizaron algunos seminarios específicos y prácticos sobre los siguientes temas:

a. La situación jurídica de las mujeres indígenas en los países que habitan;
b. La medicina tradicional;
c. La biodiversidad;
d. Financiación;
e. Socio-drama.

1. Las mujeres indígenas y la propiedad cultural e intelectual de su pueblo

La cultura de la mayoría de los pueblos indígenas tiene una estrecha conexión con su medio ambiente natural. Los pueblos indígenas, a causa de su conocimiento de sus entornos naturales, pudieron sobrevivir y usar el medio ambiente de una manera sustentable. Este conocimiento fue aprendido, establecido y desarrollado durante generaciones. Además del aspecto económico, el medio ambiente tiene un gran impacto sobre otros aspectos de su cultura, lo cual incluye las estructuras espirituales y sociales de la sociedad. Estos incluyen el conocimiento relativo a las plantas medicinales y otras formas de curación; diseño de herramientas; tradiciones orales que incluyen a las historias, poesía y canciones; y otras expresiones artísticas como la danza, la vestimenta y la ornamentación.

Aunque la propiedad cultural e intelectual de un pueblo es desarrollada tanto por hombres como mujeres, son principalmente las mujeres las que continúan propagando la cultura de su pueblo y la transmiten a las próximas generaciones. Una razón de esto es que por lo general los hombres tienen que trasladarse fuera de su entorno, debido a la presión económica o porque entran en la resistencia armada contra las autoridades nacionales. Esto deja a las mujeres para hacerse cargo plenamente de la educación de los niños, a pesar del deterioro de las comunidades indígenas y la amenaza de la pobreza y la violencia, tanto dentro de su propia región y/o en los campamentos de refugiados.

Debido al hecho de que las mujeres han salvado y desarrollado la cultura de sus pueblos, es decir, la lengua, es posible en una fase posterior alimentar un movimiento de emancipación y proveerlo con la identidad positiva de las culturas indígenas.

2. Violencia contra las mujeres indígenas

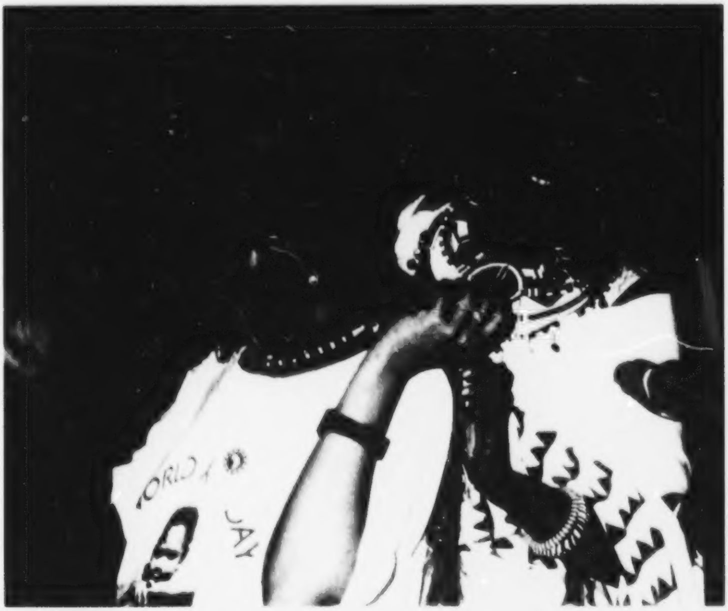
Cuando los pueblos sufren por la marginación y la violencia proveniente del gobierno, la mayoría de sus víctimas son las mujeres. En el caso de la resistencia armada contra la autoridad gubernamental, las mujeres desarmadas, los niños y los ancianos constituyen un fácil blanco para la represalia. La violencia contra las mujeres indígenas puede ser usada como una táctica efectiva por el gobierno para expulsar a los pueblos indígenas de sus territorios.

Como las mujeres, como resultado de su posición dentro de la comunidad, garantizan la cohesión de la sociedad, se trata, mediante ataques terroristas contra ellas, de desarraigar a toda la comunidad indígena. Además, se puede observar que a los ojos de la sociedad dominante, las mujeres son frecuentemente consideradas como la propiedad de sus hombres. En este caso, la violencia y la mutilación de las mujeres son usados como medios para vengarse de los hombres indígenas.

La amenaza a la existencia e integridad de las mujeres indígenas no proviene solamente de la sociedad dominante, sino también de la misma comunidad indígena. Aquí, la violencia contra las mujeres está también en aumento. Esta violencia es iniciada por aquellos hombres

que, bajo la influencia de la sociedad dominante, han perdido sus fuentes de ingreso, sufriendo así una pérdida de su autoestima, o por hombres que, como resultado de una inesperada oferta de trabajo asalariado, imponen su posición de poder a expensas de las mujeres.

La influencia de la cultura dominante fortalece las tendencias patriarcales de las comunidades indígenas y socava y/o elimina los ele-



Plegando un turbante beréber. Xguka Kristan (Fondo para el Desarrollo Kuru, Botsuana), izquierda. Silole Mpoke Gronlykke (Osiligi), derecha. (Foto: Yvonne Peen).

mentos tradicionales, generalmente matrifocales, de la estructura y la cultura.

Una tercera forma de violencia contra las mujeres es parte integral de algunas de las culturas indígenas. Estas tradiciones tienen por lo general el objetivo de controlar las actividades sexuales y económicas de las mujeres. Esto conduce a la restricción de la libertad mediante la

violencia y/o su empleo como medio de control, es decir, la circuncisión (mutilación genital). Una forma menos visible de violencia contra las mujeres es el casamiento (muy prematuro), convirtiéndolas así en la propiedad de sus maridos. Otro es silenciar moralmente a las mujeres, obstruyendo así su capacidad de expresar sus opiniones y defender sus derechos.

A pesar del rol fundamental que juegan las mujeres en su sociedad como educadoras de la nueva generación, una tarea que generalmente debe ser realizada bajo circunstancias sumamente arduas, las mujeres por lo general casi no tienen ningún poder de toma de decisión, incluso sobre sus propias vidas y cuerpos.

Resultados de la conferencia

Los cinco días de la FAIWC estuvieron repletos de reuniones plenarias, seminarios, excursiones y, algo que no es menos importante, el compartir información por parte de las participantes durante el tiempo entre y después de las reuniones programadas. La abierta y cálida atmósfera entre las mujeres que provenían de toda África fue una de las experiencias compartidas por todas las mujeres presentes, tanto participantes como organizadoras. La exposición abierta el día anterior al comienzo de la conferencia ayudó a explicar los antecedentes y la cultura a las mujeres indígenas africanas de otras regiones.

Los dos principales temas fueron tratados en reuniones plenarias. El resultado de la "Mujer Indigena como Custodia de la Propiedad Cultural e Intelectual de su Pueblo" fue en suma que la cultura tradicional en forma de la lengua y el conocimiento del medio ambiente deberían salvarse y transmitirse a las futuras generaciones. Y son especialmente las mujeres quienes ya fueron las más capaces y activas en hacerlo. Por otro lado, deberían abolirse las prácticas y tradiciones degradantes contra las mujeres. Como la mutilación genital femenina (FGM) y el hecho de que en varias sociedades indígenas las mujeres no son capaces de poseer u obtener propiedad, siendo ellas mismas la propiedad de sus maridos. Una participante destacó que las mujeres pueden y deberían cambiar este aspecto negativo de la cultura. Varias

734

participantes declararon que la situación empeoraba a través de las influencias externas, tales como la colonización y la globalización.

Esto se puso en claro cuando las mujeres compartieron sus experiencias sobre el segundo tema principal, la "Violencia contra las mujeres indígenas". Todas las presentes fueron muy conmovidas por la descripción de los terribles sufrimientos que las nu*ba* tenían que soportar debido al simple hecho de ser nuba. Estas experiencias con la violencia estatal eran compartidas en gran medida por las mujeres *oromo* de Etiopía y las *kel tamachek* de Mali y Níger. Las mujeres *san* de Namibia y Botsuana compartieron otras formas de violencia externa a las comunidades indígenas, quienes también subrayaron el hecho de que en épocas previas su sociedad había sido igualitaria, pero que hoy en día las cosas cambiaron bajo la influencia de la cultura dominante.

La mutilación genital femenina y las consecuencias para las mujeres, los casamientos prematuros y forzosos, la carencia de educación formal, la dependencia económica, la falta de conocimiento de sus derechos, fueron dados como ejemplos de la violencia infringida a las mujeres desde el seno de la sociedad indígena. Para la mayoría de las mujeres provenientes de otras regiones, fue la primera ocasión para conocer esta tradición, lo cual fue un choque para muchas de ellas. El cuarto día, cuando fueron presentados los resultados de las reuniones plenarias y los dos principales temas, los seminarios sobre la "Situación Jurídica de las Mujeres Indígenas" y sobre Biodiversidad, muchas participantes comentaron que les gustaría continuar compartiendo sus experiencias con otras mujeres indígenas de África, continuar lo que había comenzado durante la FAIWC. Al discutir el hecho de que al mismo tiempo era importante establecer grupos regionales y locales, quedó en claro que esto no podría ser efectivo sin una organización general de mujeres indígenas africanas, la cual decidieron entonces establecer. Esta organización debe mantener informados a todos los participantes y debería coordinar las acciones de apoyo, así como la lucha por los derechos de cada una de las organizaciones miembro como objetivo común en tanto que mujeres indígenas de África.

La oficina de la Organización de Mujeres Indígenas Africanas, fundada el 24 de abril de 1998, en Agadir tiene su sede temporaria en Ams-

735

terdam, en la oficina de NCIV, P. O. Box 94098, 1090 GB, Amsterdam, Holanda, FAX 00-31-20-665 2818. La oficina facilitará la publicación de un boletín informativo en inglés y francés, "Voice of the African Indigenous Woman/La voix de la Femme Autochtone Africaine". A fines de este año esperamos publicar un informe elaborado sobre la Primera Conferencia Africana de Mujeres Indígenas, en francés e inglés.

SEGUNDA CONFERENCIA ASIÁTICA DE MUJERES INDÍGENAS

Del 25 al 29 de marzo del presente año, se reunieron 30 mujeres indígenas en Kanchanaburi, Tailandia, en ocasión de la Segunda Conferencia Asiática de Mujeres Indígenas. El evento fue organizado por el Pacto de Pueblos Indígenas de Asia (AIPP), la Red Asiática de Mujeres Indígenas (AIWN) e IWGIA. El anfitrión de la Conferencia, la cual recibió apoyo financiero del Ministerio Real de Relaciones Exteriores de Noruega (NORAD) y el Ministerio de Relaciones Exteriores de Dinamarca (DANIDA), fue AIPP. El propósito de la Conferencia era -además de compartir experiencias- identificar las principales problemáticas a las cuales se enfrentan las mujeres indígenas y sus comunidades y convertir esos temas en programas para acciones futuras.

Las participantes provenían de Tailandia, India, Nepal, Camboya, Indonesia, Malasia, Filipinas y Taiwán, y para muchas de ellas era la primera vez que asistían a una conferencia internacional. También pudieron concurrir unos pequeños grupos de mujeres *karen* y *karenni* originarias de Myanmar y que hoy viven en campos de refugiados en Tailandia. También participaron dos mujeres *maasai* de Kenia, África, para contribuir con sus experiencias y establecer vínculos con sus hermanas asiáticas.

Principales temas y recomendaciones

El primer día y medio fue utilizado para presentar los diversos informes y para identificar los temas para discutir en los seminarios y plenarios durante los dos días siguientes. Se organizaron cuatro semina-

rios sobre los siguientes temas: Tierra y Temas Económicos; Cultura, Creencia y Espiritualidad; Conocimiento y Educación; y Política.

Tierra y Temas Económicos

Entre los muchos temas planteados por los informes de los países, fue recurrente el de la usurpación de tierras indígenas ancestrales y los recursos naturales que contienen las mismas. Jyotsana Tirkey, de Jharkand (India), informó que "está ocurriendo una silenciosa enajenación de tierra tribal", como resultado de la minería, las construcciones de represas, las industrias y los proyectos relativos a la fauna, "85 *lakhs* tribales han sido desplazados durante las pasadas cuatro décadas y se les usurparon 22, 5 acres *lakh* de tierra". Anna Lidan, de Sarawak, informó que cada año se cortan unas 300.000 hectáreas de bosques primarios en Sarawak. Rahima Datumanong, de Mindanao (Filipinas), planteó un panorama similar, en el cual más de 26 proyectos generadores de desarrollo que abarcan el arrendamiento de pasturas, el talado y la minería, las plantaciones y reservas del gobierno, han saqueado los recursos naturales de la isla. Chak Meul, de Camboya, habló sobre los planes de proyectos de extracción de recursos a gran escala en la provincia de Ratanakiri, y cómo amenazarán a la población indígena, que hasta el momento había vivido relativamente aislada en esta remota región: "Los conflictos están aumentando ya que las tierras ancestrales son invadidas por proyectos de plantación, compañías madereras, especuladores de tierra y fuerzas anárquicas... La mayoría de estas concesiones han sido otorgadas sin consultar con los habitantes locales", dijo.

Todo esto afecta profundamente la subsistencia de las mujeres indígenas quienes experimentan crecientes dificultades para cumplir con sus roles de proveedoras, recolectoras de leña y productos no-forestales y agricultoras. El seminario también identificó una serie de otros problemas resultantes de la explotación comercial de las tierras ancestrales, como problemas de salud, trabajo infantil prematuro, abusos sexuales y prostitución. Un ejemplo penoso fue el de Kalimantan (Indonesia), donde para poder sobrevivir muchas mujeres *dayak* se "casan temporariamente" con trabajadores de las compañías, pero son abandonadas tan pronto como finaliza el contrato de estos últimos.

Los numerosos niños resultantes de estos casamientos son llamados "anak ASEAN" (niños ASEAN).

Como su base de subsistencia desaparece, muchas mujeres no tienen otra alternativa que emigrar. Miles de mujeres indígenas de toda Asia abandonan sus comunidades todos los años en busca de trabajos asalariados en las grandes ciudades, o como en el caso de las mujeres de la Cordillera, de Filipinas, incluso en el extranjero. No obstante, lo que encuentran generalmente son peores condiciones que las que dejaron, y cada año se informa de numerosos casos de condiciones de trabajo inhumanas, abusos sexuales y muertes violentas.

La introducción de la economía de mercado es algo que también afecta a las mujeres indígenas. Como explicó Mor Tummarchartudom, una hm*ong* de Tailandia, la promoción de monocultivos significa más trabajo durante todo el año y, por lo tanto, menos tiempo para aprender y mantener vivas las tradiciones. También subrayó que la promoción de los cultivos comerciales no sólo socava la posición tradicional de las mujeres sino que también hace que las familias sean totalmente vulnerables a las fuerzas externas del mercado y al precio de los pesticidas y fertilizantes. Irene Katete, de Kenia, quien trabaja como asistente social, describió cómo la introducción del dinero ha destruido el sistema del trueque que previamente permitía a las mujeres maasai tener control y acceso a los recursos. Este cambio de su economía ha resultado en el control de los recursos y del dinero por los hombres. Otro ejemplo fue de Ratanakari, donde algunas de las mujeres de las tierras altas experimentan problemas con la economía de mercado a causa de su "incapacidad de contar el dinero o leer las escalas". Este problema recurrente ha impulsado, en todos lados, el surgimiento de intermediarios, generalmente personas no-indígenas corruptas que se aprovechan de la falta de conocimiento de las mujeres.

Como concluyó el seminario, la "nueva economía de mercado ofrece limitadas oportunidades de empleo para los pueblos indígenas. El trabajo no es sustentable y cuando los recursos han sido agotados en beneficio de las multinacionales, los pueblos indígenas quedan desempleados y con su fuente tradicional de subsistencia destruida. Las tradiciones y culturas de las comunidades indígenas están cambiando como resultado. Pero las mujeres indígenas necesitan más y mejor

información sobre los temas comunes y los efectos y repercusiones sobre su vida, y deberían tomarse medidas para realizar foros para tratar los intereses comunes".

Educación y Conocimiento

Los informes de los países mostraron que la falta de educación es un problema general para las mujeres indígenas. Existen muchas razones para esto, como por ejemplo, limitación de tiempo, carga de trabajo, falta de movilidad o acceso al sistema educativo y la percepción de la falta de necesidad. En el caso de las niñas maasai, la experiencia de Priscilla Nangurai como directora de un internado de niñas, era que muchos de los abandonos escolares son debidos al casamiento prematuro, embarazos de adolescentes y la circuncisión.

En el caso de las mujeres tribales montañesas del norte de Tailandia, la falta de educación tiene implicaciones de amplio espectro ya que conlleva a que no puedan solicitar la ciudadanía Thai y obtener una cédula de identidad pues las "solicitantes deben conocer o hablar la lengua Thai mayoritaria y adoptar un nombre Thai antes de ser consideradas aptas para la solicitud". Por otro lado, sin una cédula de identidad sus movimientos se ven severamente restringidos, no pueden ir a trabajar legalmente fuera de sus comunidades, no pueden comprar tierras y no pueden aspirar a ningún servicio suministrado por el gobierno como salud, educación, etc.

Aunque existía un acuerdo general sobre la importancia de que las mujeres obtuvieran una educación, las participantes también criticaron los diferentes sistemas educativos de la sociedad dominante porque introducen una cultura foránea que no sólo pone en peligro las lenguas vernáculas de los pueblos indígenas y su estilo de vida tradicional, sino también sus valores morales. Esto fue especialmente enfatizado por Stella Tamang al hablar sobre la situación de Nepal, donde la juventud indígena sale del sistema educativo hindú mayoritario "habiendo perdido todo lo perteneciente a su propia cultura sin haber obtenido acceso a la sociedad dominante".

Por lo tanto, muchas pusieron énfasis en la necesidad de definir y preparar un plan de estudios que integre elementos de los sistemas

educativos mayoritarios e indígenas y asegure la enseñanza de las lenguas indígenas.

El seminario también discutió cómo podía ser protegido el conocimiento indígena contra la apropiación por parte de compañías internacionales. Se dieron varios ejemplos de piratería por parte de Nepal, Birmania y Taiwán, y una de las recomendaciones fue examinar cómo puede ser protegido efectivamente el conocimiento indígena.

Cultura, Creencia y Espiritualidad

La importancia de la cultura y los valores tradicionales fue invocada por la mayoría de los oradores en la presentación del informe de su país. En general, las mujeres indígenas representan un papel importante en sus comunidades en la promoción de la creencia y la espiritualidad y son también usualmente reconocidas por disponer de conocimientos y habilidades especializados en el cuidado tradicional de la salud.

No obstante, la situación descrita en el informe de Sarawak sigue siendo válida para la mayoría de las sociedades indígenas representadas en la Conferencia: "Las mujeres dayak siguen siendo uno de los sectores más marginados, discriminados y oprimidos de la sociedad. Las instituciones y procesos sociopolíticos comunitarios están dominados por los hombres. La dirección de la comunidad también está dominada por los hombres. El papel de las mujeres en la sociedad ha sido continuamente negado o soslayado debido a las actitudes societales relativas a las mujeres. Existen estereotipos de mujer como débil, indecisa, emotiva, dependiente y menos productiva que los hombres. Estos estereotipos socavan el desarrollo y los logros de las mujeres". En su informe, Jyotsana Tirkey destacó que las mujeres de Jharkand sienten que las "leyes consuetudinarias ahora practicadas necesitan ser cambiadas de alguna manera y en cierta medida. Algunas actitudes y prácticas de casta indeseadas están también llegando a la sociedad adivasi". Pratima, quien siendo una *jaunsari* vive en una sociedad que practica la poligamia y la poliandria, informó sobre problemáticas similares. Se refirió a una de las recomendaciones de la "Conferencia de Mujeres Indígenas/Tribales de la India" celebrada en Dehra Dun, India, a comienzos de marzo, que establece que: "...si bien

la codificación de leyes y prácticas consuetudinarias es generalmente un buen paso, está cargada de graves peligros para las mujeres. Existen varias prácticas tribales que afectan negativamente a las mujeres, como la poligamia, la exclusión de las mujeres de los derechos de propiedad, etc... Codificar estos aspectos negativos sería perjudicar permanentemente a las mujeres tribales".

En el seminario, las mujeres discutieron algunas de las instituciones y prácticas que ellas consideran ser especialmente opresivas para la mujer, como por ejemplo, el casamiento prematuro, la dote y el precio de la novia, las prácticas hereditarias y los derechos de propiedad. La adicción a las drogas y el alcoholismo fueron temas también discutidos ya que afectan a muchos pueblos indígenas. Son frecuentemente considerados como provenientes de la situación de represión cultural, económica y política a la cual están sometidos, y conducen no sólo a la violencia doméstica sino también a la dependencia y el debilitamiento.

Había un consenso general sobre la necesidad de cambiar muchas actitudes y no considerar a la tradición y la cultura como estáticas e incambiables, sino por el contrario, alentar la reexaminación y reinterpretación de ciertas prácticas que son usadas para discriminar a las mujeres.

Política

Casi todos los informes de los países subrayaron la limitada participación de las mujeres en las estructuras políticas locales y en los procesos resolutivos aldeanos. Los concejos aldeanos tradicionales y otros organismos representativos son casi siempre dominados por los hombres, y en los pocos casos en que las mujeres participan, la autoridad yace en los ancianos quienes son hombres.

Sin embargo, esta marginación no ha impedido a las mujeres indígenas tomar parte activa en la lucha para proteger a sus comunidades contra las llamadas actividades de desarrollo que significan enajenación de la tierra, desplazamiento forzado, etc., un papel que no es muy frecuentemente escuchado sino que fue destacado por varias oradoras. En Jharkand, por ejemplo, lás mujeres han estado en la vanguardia de la lucha de 27 años contra la construcción de una represa sobre el río

Koelkaro, y fueron parte integrante de un movimiento para impedir el Campo de Pruebas de Tiro de Netrahat. En ambos casos, el gobierno tuvo que ceder y detener sus proyectos. Algunas de las oradoras podían incluso referirse a su propia experiencia, como por ejemplo, C. K. Janu de Kerala, en el sur de la India, quien pasó prolongados periodos de su vida en la cárcel, y Mama Yosepha, una de las líderes de los clanes a*mungme* de Papúa Occidental (Irian Jaya), quién nos relató cómo ella forzó a una reunión cara a cara con el poderoso presidente de Freeport McMoran, el gigante minero aurífero con sede en los EE.UU., el cual confiscó la tierra de las tribus amungme y *komoro*. En la opinión de C. K. Janu "en el transcurso de las agitaciones, son generalmente las mujeres las que se quedan a luchar. Los hombres son fácilmente engañados con un cigarrillo o un *beedi* (cigarrillo hindú) u otras tentaciones".

Las mujeres han tomado parte activa en casi todos los movimientos armados de resistencia, y se dieron ejemplos de Myanmar, los estados nororientales de la India, y las Filipinas. Y son ellas quienes generalmente sufren más al ver a sus familias asesinadas, sus hogares destruidos, y al ser ellas mismas torturadas, encarceladas y violadas. La experiencia de las mujeres era que la violación es ampliamente utilizada como un arma para mutilar a las naciones indígenas. Muchas mujeres terminan en campamentos de refugiados, pero incluso allí, como lo atestiguaron las mujeres karen y karenni que viven en campos de refugiados a lo largo de la frontera tailandesa-birmana, se vive en constante temor ya que ha habido varios ataques por parte de las tropas SPDC birmanas que resultaron en la muerte de muchos refugiados. El ejercito thai es también conocido por hostigar a los refugiados.

Ante el profundo compromiso de las mujeres indígenas con la lucha de sus pueblos por la autodeterminación y los derechos humanos, la principal recomendación del seminario fue exigir que "(este) papel fuera reconocido y que podamos participar plenamente en los procesos de toma de decisión ya sea en nuestra propia sociedad o en la interacción de los pueblos indígenas con la sociedad dominante".

Resultado y seguimiento

En la sesión de clausura, la Conferencia discutió cómo, según las palabras de Stella Tamang, "pasar de los sueños, esperanzas e ideas a la acción". Como primer paso, se adoptó una resolución para establecer un comité. Este comité será un organismo "flexible" establecido bajo AIPP, y por el momento su responsabilidad será hacer un seguimiento de los resultados de los cuatro seminarios y finalizar un plan de trabajo, hacer trabajo de contacto y preparar el próximo encuentro regional.

Pero un requisito previo para el trabajo del comité será el fortalecimiento de los movimientos y organizaciones de mujeres indígenas, una tarea que debe ser realizada por las participantes en sus respectivas comunidades. Sólo mediante la organización, las mujeres indígenas se fortalecerán y obtendrán más influencia. Se presentaron varios ejemplos en la Conferencia. Uno fue el de las mujeres de la Cordillera que fueron capaces de poner el alcoholismo en la agenda de sus comunidades; otro el de las mujeres de los campos de refugiados karenni quienes han sido capaces de organizarse e iniciar programas de bienestar. Shimrechon Luithui, de Nagaland, dio el ejemplo de las organizaciones de mujeres que, gracias a su lucha organizada contra la violencia estatal, jugaron un importante papel en la resolución del conflicto y ahora toman parte en el diálogo con el gobierno de la India.

No obstante, queda mucho por hacer. Hablando sobre Jharkand, Jyotsana Tirkey destacó que: "Las organizaciones de mujeres indígenas son muy pocas. Y quieren más apoyo de los foros nacionales e internaciones de mujeres. El futuro del movimiento de las mujeres indígenas se enfrenta a muchas barreras y desafíos visibles e invisibles". Otras oradoras presentaron puntos de vista similares. Pero también se dieron ejemplos alentadores de nuevas iniciativas, como el de la India, donde Shimreichon Luithui informó sobre el reciente establecimiento de un equipo de trabajo de mujeres, establecido dentro del Foro de Coordinación Indígena/Adivasi de la India con el propósito específico de fortalecer el movimiento de mujeres indígenas.

743

CONFERENCIA DE LAS MUJERES TRIBALES/INDÍGENAS DE LA INDIA EN DEHRA DUN

Diversos relevamientos y estudios han mostrado que las mujeres tribales de la India, como sus hermanas del extranjero, son víctimas de una opresión triple -como mujeres, como tribales y como pobres. Aunque los tribales de la India y sus organizaciones han ganado un creciente reconocimiento y en algunos casos incluso influencia política, las mujeres tribales siguen siendo casi invisibles y se les ha prestado poca atención, o ninguna, a los temas que les conciernen directamente.

"Rural Litigation and Entitlement Kendra" (RLEK) ha estado trabajando con las comunidades indígenas de los va*n gujjar* y los *jaunsaris* de la región de Garhrwal de Uttar Pradesh occidental desde hace algunos años. En el proceso de intento de fortalecer la posición de las mujeres de estas comunidades, se ha visto que los problemas de estas mujeres tribales están también compartidos por sus hermanas tribales del resto del país. Por lo tanto, RLEK es de la opinión que estos deberían ser considerados en un concepto más amplio y nacional para poder reconocer la conciencia general de la situación de las mujeres tribales de la india, sus derechos humanos y su papel crucial para la supervivencia de los pueblos tribales.

Con esto en vista, RLEK organizó una Conferencia de Mujeres Tribales/Indígenas de la India del 15 al 17 de marzo de 1998, en Dehra Dun, en Uttar Pradesh, India. Recibió apoyo financiero del Ministerio de Relaciones Exteriores de Dinamarca (DANIDA). La conferencia otorgó la oportunidad de que participaran representantes de las mujeres tribales para compartir sus problemas, intereses y aspiraciones con sus hermanas. La conferencia preparó el camino para incrementar la posibilidad de poder elevar sus voces en los foros regionales e internacionales.

Participaron en la conferencia 77 representantes de mujeres tribales (con sus intérpretes/traductores) de todo el país. Las tribus representadas en la conferencia eran: Kinnora, Bhil, Kundh, Santhal, Karbi, Uraon, Thakur, Mizo, Kom, Varali, Kokani, Khasi, Naga, Tharu, Bodo Kochary, Garo, Dungri Grasia, Chero, Jaunsari, Van Gujjar, Tripuri, Reang, Konda Reddy, Konda Dora, Konda Kamari, Ho, y Kondh.

 744

Función inaugural

La Conferencia de Mujeres Tribales/Indigenas de la India fue inaugurada el 15 de marzo de 1998, a las 11:30 de la mañana por la Jueza, Sra. Shoba Dixit, del Tribunal Lucknow, de la Suprema Corte de Allahabad. En su discurso inaugural, la Sra. Jueza Shoba Dixit alentó a las mujeres a unir sus manos con sus hombres para crear una sociedad equitativa. Dijo que en gran medida, las mismas mujeres eran responsables de la discriminación contra las niñas ya que ellas sucumbían a la presión social. En una discusión de panel de las mujeres tribales representantes del Noreste, surgió que aunque compartían mucho en común con sus hermanas tribales de otra parte del país, su situación también tenia su especificidad. Dijo que en una atmósfera llena de agresividad y violencia, ellas tenían que jugar el papel de pacificadoras y mantenedoras de la paz.

Doscientas cincuenta mujeres tribales/indigenas asistieron a la ceremonia inaugural. Sus representantes se quedaron para participar en la conferencia.

Seis otras oradoras se dirigieron a las participantes en la ceremonia inaugural:

La Sra. Jijay Lakshmi (miembro del Distrito Panchayat, Kinnore, Himachal Pradesh) alabó la oportunidad que le había dado a las mujeres de la India el hecho de la reserva de escaños para mujeres en el sistema panchatat raj y subrayó que era muy necesario que las mujeres recibieran una buena educación. También describió los efectos de la falta de servicios médicos y sanitarios en áreas remotas sobre las mujeres y los niños.

La Sra. Leela Kayastha (Nepal, Organización Nacional contra la Disminución del Bienestar Social) destacó la creciente incidencia del tráfico de mujeres y niñas de Nepal a la India.

La Sra. Phulkeria Minj (Bihar) describió el sufrimiento de las mujeres tribales en grandes ciudades como Delhi.

La Sra. Ratna Devi (Miembro del Panchayat Kshetra, Kalsi, Jaunsar) señaló como el derecho consuetudinario de su tribu negaba todo derecho de propiedad a las mujeres, haciéndolas totalmente dependientes de sus hombres.

La Sra. Imami Murmu (Dumka, Bihar) destacó la emigración de mano de obra tribal de Bihar a otros estados a causa de la falta de oportunidades en Bihar. Las mujeres son las que sufren más pues tienen que crear un entorno doméstico en tierras totalmente desconocidas. Las mujeres que se quedan en Bihar tienen que asumir todas las responsabilidades y están sometidas a mucha explotación, tanto financiera como física.

La Sra. Badki Bai Damor (Presidenta, Adibasi Mahila Jagriti Sansthan, Udaipur) habló sobre la falta de oportunidades educacionales para su tribu, especialmente para las mujeres, y, consecuentemente, la existencia de una gran incidencia de desempleo entre ellas.

Sesión plenaria sobre el proceso anterior y posterior a la Conferencia de Pequín

Las cuatro principales oradoras habían asistido a la Conferencia de Pequín y explicaron a las participantes lo que significó para las mujeres tribales. Hablaron de cómo se celebraron varios talleres y seminarios a nivel regional y aldeano en toda la India para llevar las voces de las mujeres a Pequín. Las mujeres se comunicaron a través de cantos, dibujos, acciones, teatro, etc. Una delegación cultural a nivel de base participó en el foro cultural de Pequín. Lo importante que surgió de estas reuniones fue que la vida de las mujeres indígenas estaba en peligro. Nunca habían participado en los procesos de toma de decisión. No obstante, tenían sus sistemas tradicionales, como el sistema de salud, que habían mantenido vivo durante tantos siglos. Todas estas experiencias fueron compartidas en el proceso de Pequín. También se hizo una alianza de mujeres *dalit* marginadas a nivel nacional, la cual fue una alianza muy importante para las mujeres indígenas.

En Pequín, se convocó a una conferencia especial para las mujeres de los estados del Noreste de la India porque se reconoció que no sólo enfrentaban problemas como mujeres tribales sino que también tenían que enfrentar los problemas que surgen del conflicto armado que tiene lugar entre los pueblos y el estado y también entre los mismos pueblos. La Declaración de Pequín fue también brevemente explicada a las participantes.

Otras sesiones plenarias

Se leyeron seis trabajos y presentaciones en las sesiones plenarias. Trataban de los siguientes temas: El papel de las mujeres indígenas en la sociedad en desarrollo; Condiciones de trabajo de las mujeres tribales en las ciudades metropolitanas; Una mirada a Tripura y el estatus de las mujeres tribales en Tripura; Vida sociocultural de los *bodos*; Habitantes del bosque y producción forestal no maderera (film); Pastores nómadas *pashmina* de Changthang, Ladakh (diapositivas y comentarios).

Plenario especial sobre el Noreste de la India

Las mujeres tribales del Noreste no sólo comparten muchos problemas con las otras tribus sino que también viven una situación única a causa de la insurgencia en el área. Se dedicó una sesión plenaria a los problemas del Noreste.

Además de describir las características de las tribus a las que pertenecían, el grupo destacó que estaba representando un papel de pacificadoras entre sus propios hombres y las agencias estatales así como también entre los hombres de sus diferentes tribus. Las mayores víctimas de la militancia del área eran las mujeres y los niños.

Grupos de trabajo

Se repartieron formularios a las participantes y se les solicitó anotar en los mismos los problemas que ellas pensaban que afectaban más a su situación como mujeres tribales/indígenas. En base a esto, las participantes fueron divididas en tres grupos para discutir tres categorías amplias, la sociocultural, la socioeconómica y la sociopolítica.

Después de que los grupos de trabajo habían discutido y analizado los temas que las afectaban, se requirió a una, dos o tres de ellas que presentaran sus conclusiones y sugerencias en la sesión plenaria que seguía. Para facilitar el trabajo, cada uno de los grupos tenía un moderador y un informante.

747

Despidiéndose con un abrazo. Mujeres indígenas en Dehra Dun (Foto: Christian Erni).

748

Grupo I - Temas socioeconómicos. Estaban centrados en: Problemas del desposeimiento de tierras; Desempleo; Impacto de las multinacionales; Pobreza; Alcoholismo entre los hombres.

Grupo II A y II B - Temas sociopolíticos. Estaban centrados en: Derechos de las mujeres a la propiedad de la tierra; Reasentamiento/evicción de los bosques; Servicios básicos como salud, educación, sanitarios, aguas, caminos, etc.; Derechos tradicionales y habilitaciones; Corrupción entre la burocracia, etc.; Las mujeres en el gobierno; Psicosis de temor entre las mujeres tribales/atrocidades policiales; Política gubernamental respecto a las multinacionales.

Grupo III - Temas socioculturales. Estaban centrados en: Educación - la necesidad de incluir el conocimiento tradicional y la lengua; Incidencia del alcoholismo; Chauvinismo masculino y opresión masculina; Discriminación entre los hombres y las mujeres - especialmente las niñas; La carga del trabajo doméstico; El casamiento prematuro; La modernización; La falta de comprensión de los temas indígenas.

Recomendaciones de la Conferencia de Mujeres Tribales/Indígenas de la India celebrada del 15 al 17 de marzo de 1998, en Dehra Dun, Uttar Pradesh, India

Las sugerencias hechas en la presentación de cada grupo fueron luego incorporadas como Recomendaciones de la Conferencia. Estas son:

1.a) Se debería facilitar la transferencia de tierras a nombre de las mujeres tribales para impedir la fácil enajenación de la tierra de las familias tribales a individuos no-tribales o compañías/corporaciones.
b) Se aliviarían muchas injusticias sociales si la propiedad conjunta de la tierra y la propiedad del marido y la esposa fueran el nuevo modelo de propiedad de la tierra.
c) La mercantilización de la economía afecta negativamente la seguridad alimenticia de las familias tribales y la posición de las mujeres en las familias tribales.

Las fuerzas del mercado están creando un cambio en el modelo agrícola transformándolo de la producción agrícola alimenticia de subsistencia a la producción agrícola alimenticia comercial.

En un sistema alimenticio basado en la agricultura, las mujeres tienen poderes de decisión ya sea en lo relativo a las subespecies de cultivos alimenticios a ser sembrados como en el uso de tal producción para el consumo de la familia y el mercado. Con los cultivos comerciales, las familias se tornan totalmente vulnerables a las fuerzas externas del mercado, sobre las cuales las familias no tienen control y en tal mercado impulsado por la economía, los hombres, por fuerza, tienen que asumir un papel más dominante.

La política nacional de liberalización y globalización y el marco o paradigma de desarrollo dominante son perjudiciales para el país y para los pueblos tribales y estas políticas necesitan ser cambiadas.

2. Toda la sociedad tribal ha sido dependiente de la naturaleza, es decir, bosques, agua natural y otros recursos naturales como los productos forestales no-maderables. Siempre ha habido una relación simbiótica entres las comunidades y su medio ambiente. Los pueblos tribales no dañan por lo general a la naturaleza porque los privaria de su vida y subsistencia. Sin embargo, imposiciones como la tenencia indefinida o los desastres naturales los obligan a veces a explotar excesivamente sus recursos naturales. Por lo tanto, es necesario, que la educación ambiental se extienda a los grupos tribales.

Las actuales tendencias hacia una manejo sustentable del medio ambiente y la preservación de la biodiversidad niegan desgraciadamente esta relación histórica y simbiótica. Esto afecta negativamente a su ocupación, subsistencia y vidas.

Por otro lado, la comercialización mediante el corte de árboles a gran escala y la creación de bosques de monocultivo están dañando definitivamente a la biodiversidad y el equilibrio ecológico.

3. Lo remoto y la insularidad de los grupos tribales crean un sentimiento de aislamiento e inseguridad. Las ONGs deberian tratar de incluir en su agenda de actividades, programas de intercambio entre diferentes tribus de diferentes regiones, de tal manera que cada grupo

conozca la comunión de sus problemas, lo cual ayudaría a la solidaridad y ayudaría a la organización colectiva, colaborativa.

4. Si bien la codificación de las leyes y prácticas consuetudinarias es generalmente un buen paso para las tribus, está llena de graves peligros para las mujeres. Existen diversas prácticas tribales que tienen efectos negativos para las mujeres, como la poligamia, la exclusión de las mujeres de los derechos de propiedad (excluyendo tres sociedades matrilineales, es decir, los khasi, los *garo* y los *jayantia*), la no participación de las mujeres en las tomas de decisión colectivas, etc. Codificar estos aspectos negativos dañarían permanentemente a las mujeres tribales. Por lo tanto, existe la necesidad de volver a considerar todo el asunto para promover el interés de las mujeres en las sociedades tribales.

5.a) La formación de organizaciones fuertes de mujeres tribales a nivel local, regional, estatal y nacional es un imperativo para poder tratar los problemas relacionados con lo social, lo político, lo económico y con el desarrollo, que enfrentan las mujeres tribales.
b) Debería desarrollarse una red de organizaciones de mujeres tribales para ayudarse mutuamente en situaciones difíciles y para enfocar la atención a nivel estatal, regional y nacional para asegurar acciones correctivas apropiadas y llevar adelante un papel de defensa.
c) Esta red actuará también como un grupo de presión para proyectar problemas tribales a través de los medios de difusión y la legislatura. También pueden plantear los temas de la violación de derechos humanos y otras infracciones de la ley y de la constitución ante las Cortes Supremas, la Comisión de Derechos Humanos del estado, la Comisión Nacional de Derechos Humanos y la Suprema Corte.

6. Existe una gran preocupación sobre la expansión del alcoholismo que está alterando a las familias y economías tribales y causando violencia contra las mujeres. El alcoholismo, que es frecuentemente promovido en base a consideraciones comerciales por el sector empresarial, debe ser detenido.

Aparte de hacer sus tradicionales bebidas alcohólicas en la familia, debería existir una total prohibición a la entrada de alcohol manufacturado comercialmente en las áreas tribales.

7. La educación es esencial para la habilitación de las mujeres y los planes de estudios deberían incluir el etos tribal y cultural y la sabiduría antigua, particularmente aquella referida al cuidado de la salud y las actividades económicas.

En realidad, debería hacerse una seria investigación de ese conocimiento tribal ancestral para enriquecer a la ciencia moderna y establecer un vínculo entre el pasado y el presente. Además, existe la necesidad de incluir una historia de las mujeres tribales en el cuerpo principal de la historia del país.

8. Aunque las mujeres tribales tienen un elevado estatus en su propia sociedad, ellas están totalmente excluidas en todos los asuntos relativos al gobierno de la sociedad tribal. En la mayoría de las tribus, a las mujeres no se les permite la participación en concejos tribales o cualquier sistema de justicia tribal.

La reserva para mujeres provista en las Enmiendas Constitucionales 73 y 74 es un tema en el cual había un amplio consenso, aunque había diferencias de opinión sobre la extensión del sistema panchayat a los territorios excluidos del 6º Registro y los estados excluidos de Mizoram y Meghalaya.

Se debería hacer un intento para que los mejores elementos del Panchayat Raj se incorporaran a las áreas del 6º Registro, para que las mujeres puedan ejercer el gobierno en esos territorios como sus hermanas del resto de la India.

9. La India es signataria de una serie de convenios internacionales que están específicamente relacionados con los pueblos indígenas y tribales del mundo, y con las mujeres indígenas y tribales en particular. Tratan del respeto de los derechos y habilitaciones de estos pueblos y recomiendan que en cualquier decisión estatal que pueda tener un impacto directo u oblicuo sobre los pueblos tribales, los mismos deben ser siempre consultados y se debe incorporar sus decisiones.

No obstante, varias de estas convenciones no están ni siquiera ratificadas por el gobierno e incluso cuando han sido ratificadas no son implementadas. Los grupos tribales de la India deben ejercer una presión colectiva sobre el gobierno para que ratifique e implemente estos convenios.

10. La situación de las mujeres tribales trabajadoras emigrantes tiene que ser considerado un problema serio que no sólo socava el autorespeto y la dignidad de estas mujeres tribales sino que también las pone en situaciones de opresión y explotación. Deben construirse organizaciones de esas mujeres tribales y deben ser fortalecidas para asegurar que sus ocupaciones les otorguen salarios apropiados, adecuados a su trabajo. Y que también se les dé el debido respeto que merece cualquier persona que trabaja para ganarse la vida.

La Ley del Trabajador Migrante Interestatal responde parcialmente a este problema. Se puede recurrir a esta Ley, especialmente en el caso de las trabajadores migrantes tribales.

11. Para brindar empleo y oportunidades de ingresos a las mujeres tribales, los gobiernos estatales tendrán que ser persuadidos de brindar la capacitación vocacional requerida para desarrollar capacidades alternativas.

12. Cualquier actividad importante de desarrollo, especialmente relacionada con la minería, las industrias relacionadas a los recursos minerales, grandes represas, etc., tiene como resultado un desplazamiento a gran escala de ciertas poblaciones, particularmente de tribales. No se sigue ninguna política sana para la adecuada rehabilitación de las personas así desplazadas, tanto de su subsistencia como de su estilo de vida. Se debe tomar el debido cuidado y precaución cuando se elige los sitios para evitar deslazamientos a gran escala. Algún tipo de desplazamiento es inevitable. Se deben tomar medidas apropiadas para rehabilitar a tales familias/comunidades en un ambiente que les sea familiar para otorgarles las habilidades apropiadas para que puedan ser empleados en la industria moderna.

LA RED DE LAS FAMILIAS DEL PACÍFICO

La Red de las Mujeres del Pacífico fue fundada en 1995 como un foro de mujeres con sede en Hawai'i. Brindó a las mujeres del Pacífico la oportunidad de encontrarse y discutir con otras mujeres de color sus intereses en la región del Pacífico (racismo nuclear, elevadas tasas de encarcelación, abuso de drogas, violencia doméstica, sexismo y hostigamiento sexual en el trabajo y/o en la escuela). El nacimiento de la organización fue oportuno, coincidiendo con una reunión de mujeres - la 7ª reunión del Instituto Internacional de Cruzamiento-Cultural de las Mujeres Negras- en Hawai'i. La Red de Mujeres del Pacífico fue la anfitriona de este evento, vinculando a las mujeres hawaiianas y americanas de color con las mujeres estudiantes del Pacífico que asistían a la Universidad de Hawai'i en O'ahu, y mujeres visitantes de Fiyi, Samoa Occidental, Palau, Samoa Americana, Islas Salomón, Australia y Aotearoa.

En abril de 1998, la Red de Mujeres del Pacífico cambió su nombre por el de Red de las Familias del Pacífico, para ponerse a tono con una misión y una filosofía ampliadas: servir a las mujeres y niños del Pacífico, especialmente mujeres encarceladas, en la transición de su salida de la cárcel y la integración a sus familias, a través de "opciones de capacitación", - suministrando un amplio apoyo a las mujeres (y sus parejas) que eligen trabajar en el campo de la justicia social después de salir de la prisión. La Red de las Familias del Pacífico está actualmente instituyendo un programa de internado para los internos en transición que ahora están en programas residenciales para alentarlos a elegir entre una serie de opciones, como una educación más elevada, capacitación en la producción de videos, restauración ambiental, activismo social a través del trabajo de "lobby" legislativo, capacitación en mediación y/o asesoramiento en cualquier campo de la justicia social. Los internados consistirán de seguimiento de carreras, y un modesto estipendio, para exponer a los internos a nuevas ideas y capacitarlos para que capaciten a otros.

La centralización de la Red de las Familias del Pacífico sobre las prisiones surge de la preocupación por la cantidad de personas del Pacífico que están encarceladas en prisiones de los EE.UU. y del Paci-

fico. Los estudios muestran que en Hawai'i, por ejemplo, los presos hawaiianos comprenden el 73% de la población carcelaria, mientras que los hawaiianos, como grupo, constituyen sólo el 20% de la población total. La excesiva representación de hawaiianos en las prisiones de Hawai'i refleja los porcentajes de nativos americanos y negros en las prisiones americanas, y probablemente sea también cierto para los pueblos del Pacífico en otras áreas del Pacífico.

Aunque la Red de las Familias del Pacífico ha tratado de satisfacer fundamentalmente las necesidades de familias de Hawai'i, se espera que antes del fin de 1999, se haya vinculado con organizaciones de contacto familiar de otras áreas del Pacífico.

Por más información sobre nuestro programa, ponerse en contacto con Lynette Cruz (Outreach Coordinator) en (808) 738-0084 - tel., o (808) 738-1094 - fax, o e-mail <lcruz@hawaii.edu>

PARTE III

DERECHOS INDÍGENAS

LA DECLARACIÓN DE LA ONU ENTRA EN SU TERCER AÑO EN LA COMISIÓN DE DERECHOS HUMANOS

Por Andrew Gray y Jens Dahl

Entre el 27 de octubre y el 7 de noviembre de 1997, la tercera sesión del Grupo de Trabajo Abierto de la Comisión de Derechos Humanos de la ONU (CHR) discutió el proyecto de Declaración sobre los Derechos de los Pueblos Indígenas. El proyecto de Declaración es un documento que después de un proceso de casi diez años de consultas con los pueblos indígenas, fue aprobado en agosto de 1994 por la experta Subcomisión de Derechos Humanos de la ONU sobre la Prevención de la Discriminación y la Protección de las Minorías. El proyecto fue entonces enviado a la CHR para ser discutido por los gobiernos en el Grupo de Trabajo Abierto (OEWG). Las dos primeras sesiones de este último fueron descritas en detalle en el Mundo Indígena de IWGIA 1995-96 y 1996-97.

Formalmente, el Grupo de Trabajo Abierto opera de acuerdo a las reglas de la Comisión de Derechos Humanos. Esta consiste de 53 representantes de los gobiernos quienes tienen plenos derechos participatorios de asistencia, palabra y toma de decisión. Los gobiernos nomiembros pueden asistir, así como también las ONG con estatus consultivo en el Concejo Económico y Social (ECOSOC) de la ONU. Las ONG tienen derecho a asistir a las reuniones de la CHR y hablar una vez sobre cada punto de la agenda.

Cuando se estableció el Grupo de Trabajo Abierto en 1995, la ONU decidió permitir la participación indígena y se estableció un complicado procedimiento para la acreditación de las organizaciones indígenas. Este implica escribir al coordinador del "Decenio Indígena", el Sr. Ibrahim Fall, en el Centro de Derechos Humanos en Ginebra, quien consulta con los gobiernos pertinentes. Con su aprobación, la solicitud es pasada al Comité de ONG en Nueva York donde se discute cada propuesta y la mayoría son aceptadas. Más de cien organizaciones han sido acreditadas. No obstante, al trabajar con ONG que tienen

estatus consultivo en ECOSOC, todo el que lo desee puede asistir al Grupo de Trabajo Abierto.

Durante la sesión de 1996, los pueblos indígenas lucharon por el derecho a la plena participación en la reunión. Después de haberse retirado y de subsiguientes negociaciones, la Presidencia, utilizando su discreción, permitió a los pueblos indígenas el derecho a hablar en su propio nombre en la reunión y que sus opiniones se reflejaran en el informe. La asistencia y el derecho a la palabra son dos de las tres formas de participación posible en las Naciones Unidas, y los pueblos indígenas exigieron enérgicamente que se les otorgara el pleno e informado consentimiento antes de que se tomara cualquier decisión o se aprobara cualquier artículo en el Grupo de Trabajo Abierto.

Al comienzo de la reunión de 1997, la Presidencia realizó extensas consultas con los gobiernos y los pueblos indígenas y se llegó a un compromiso. La reunión se dividiría en sesiones "informales" y "formales". Ninguna decisión pasaría a las sesiones formales hasta que todos los participantes, tanto indígenas como gubernamentales, estuvieran en consenso. Este acuerdo otorgó a los participantes indígenas un veto de fa*cto* sobre toda toma de decisión formal. Después de sólo unos pocos días, parecía que algunos gobiernos lamentaban haber aprobado este procedimiento.

Los gobiernos y los pueblos indígenas que participan en el Grupo de Trabajo Abierto forman diferentes grupos. El grupo de pueblos indígenas está basado en un grupo que ha trabajado desde la década de 1980 en el Grupo de Trabajo de la ONU sobre Poblaciones Indígenas. Este asume la forma de una reunión preparatoria de dos días, el fin de semana anterior a la reunión del Grupo de Trabajo, la cual es organizada y facilitada gracias al representante m*ohawk*, Kenneth Deer, con el apoyo logístico del Concejo Mundial de Iglesias.

Durante la Reunión Preparatoria de este año, el grupo indígena discutió su estrategia y acordó por consenso continuar su defensa del proyecto de Declaración tal cual está. Los representantes indígenas analizaron las experiencias del año previo y mantuvieron su conclusión que la Declaración es una totalidad que interconecta los derechos indígenas en una base holística.

758

Durante la reunión, la Presidencia del Grupo de Trabajo se dirigió a los representantes indígenas y se discutieron los procedimientos y la agenda. Algunos representantes indígenas estaban preocupados por la agenda propuesta sugerida por la Presidencia, según la cual los artículos "no-polémicos" serían discutidos sin un previo intercambio de puntos de vista sobre derechos fundamentales como el de la autodeterminación. Sin embargo, este tema vincula todos los aspectos de la Declaración y aprobar artículos sin tener un sentido del apoyo de los gobiernos al derecho a la autodeterminación podría arriesgar el debilitamiento de toda la Declaración en una fecha futura después de que los artículos fueran adoptados. Esto fue objeto de una considerable discusión durante el primer día del Grupo de Trabajo.

El grupo indígena se reunió todas las tardes y a veces durante la reunión, los representantes indígenas de tres regiones se reunían juntos o con los gobiernos de sus áreas, como América del Norte, América Latina, Asia y Australia/Nueva Zelanda. Aunque la discusión fue siempre intensa, el grupo indígena trabajó junto durante toda la reunión en forma constructiva y demostró una flexibilidad y una cooperación que resultaron en un fuerte bloque para la defensa de sus derechos.

En 1996, las alianzas gubernamentales formaron bloques que sufrieron un cambio sustancial antes y durante la reunión de 1997. Los tres grupos en 1996 eran: el grupo "occidental", consistente de los países Nórdicos, Europa, América del Norte, Australia y Nueva Zelanda; los países latinoamericanos; y los países asiáticos. Durante el Grupo de Trabajo Abierto de este año, apareció una nueva formación. El "grupo occidental" sufrió una división triple. Los países europeos como Francia, Holanda, Alemania y el Reino Unido hablaron poco, y surgió un nuevo grupo llamado CANZUS (Canadá, Australia, Nueva Zelanda y los Estados Unidos), asumiendo una posición marcadamente más conservadora en oposición a los países Nórdicos.

Esto afectó el marco general de la reunión. El grupo latinoamericano estaba dividido entre aquellos que abiertamente apoyaban a los países Nórdicos como Bolivia, y aquellos que apoyaban el grupo CANZUS (Brasil y Argentina). El grupo asiático se mantuvo generalmente callado, pero cuando habló fue usualmente en oposición al grupo

CANZUS y se puso cada vez más positivo respecto al proyecto de Declaración durante las dos semanas de la reunión. Incluso, en diversos puntos de la discusión, India, Bangladesh y China (los gobiernos asiáticos más elocuentes) expresaron que en principio no tenían ninguna objeción al texto.

El acuerdo para los procedimientos de la reunión otorgó a los pueblos indígenas un veto en todas las reuniones informales, mientras que los gobiernos siguieron detentando los poderes resolutivos en las sesiones formales. Esto otorgó a los pueblos indígenas un fuerte veto en las discusiones sobre artículos específicos del proyecto de Declaración, pero una posición más débil cuando el informe final fue aprobado en una sesión plenaria formal. Esto se hizo notorio cuando a los pueblos indígenas no se les otorgó el derecho a cuestionar la forma en que el informe representaba las declaraciones de los gobiernos en las sesiones informales.

La reunión

El primer día de la reunión comenzó con la reelección del Sr. José Urrutia como Presidente del Grupo de Trabajo Abierto. Después de las formalidades iniciales, la reunión fue suspendida. Durante el resto del día la Presidencia negoció con los gobiernos y los pueblos indígenas sobre los procedimientos y la agenda para la reunión. Se acordó la división en sesiones formales e informales y luego de una extensa discusión se acordó que la reunión se dividiría en comentarios generales, una discusión del Artículo 3 sobre la autodeterminación el jueves de la primera semana y un debate sobre los principios y textos de artículos menos polémicos: 15, 16, 17, 18, 43, 5, 14, 44, 45, 1, 2, 12 y 13. El último día se dedicaría a la discusión y aprobación del informe.

El debate general

Los representantes indígenas dominaron el debate general. Hubo solamente una declaración gubernamental cuando China reiteró su posición previa sobre la necesidad de una definición del término "indígena". Las ponencias indígenas abarcaron un amplio espectro de enfo-

ques generales del proyecto de declaración y juntas constituyeron la filosofía sustentadora del texto.

Los representantes indígenas hicieron énfasis en que el proyecto de Declaración debería ser considerado como un todo, con todos los artículos vinculados entre sí por el concepto clave de la autodeterminación indígena, como lo establece el Artículo 3. Explicaron que el texto había sido concebido durante un período de más de 10 años por expertos con la plena participación de los pueblos indígenas, y si bien podría no ser perfecto, constituye la base mínima normativa para la protección de los derechos indígenas.

Varios participantes hicieron énfasis en que el proyecto de Declaración abre nuevos aspectos del derecho internacional y subrayaron la importancia de los derechos colectivos y el respeto por la diversidad cultural de los pueblos indígenas. Todos los que hablaron exigieron que el proyecto de Declaración fuera adoptado tal como estaba escrito y que la participación indígena en todo el proceso de la ONU de aprobación de la Declaración debería ser plena y libre.

La discusión sobre la autodeterminación

El Artículo 3 del proyecto de Declaración dice: "Los pueblos indígenas tienen el derecho a la autodeterminación. En virtud de ese derecho ellos determinan su estatus político y procuran libremente su desarrollo económico, social y cultural". Los gobiernos fueron más elocuentes sobre este tema en la discusión. Aunque hubo algunos debates sobre la redacción del artículo, prácticamente todos los gobiernos (con la prominente excepción de los Estados Unidos) aceptaron el artículo en principio.

Aquellos gobiernos que apoyaron más el artículo fueron los países Nórdicos (Dinamarca, Noruega, Finlandia y Suecia), Fiyi, Pakistán, Bangladesh, Suiza, Bolivia, Colombia, Canadá y Nueva Zelanda. Su preocupación era que la autodeterminación fuera coherente con la comprensión interna con los pueblos indígenas. Para algunos países, como Colombia, esto significaba que en la práctica la autodeterminación tomaría la forma de la autonomía, mientras que para Nueva Zelanda, estaría enmarcada en el Tratado de Waitangi. No obstante, en general,

estos gobiernos no tenían problemas importantes con respecto al concepto.

Otros gobiernos apoyaron la autodeterminación pero tenían la preocupación de que no creara una amenaza para la integridad territorial del estado. México, Venezuela, Guatemala, El Salvador, Brasil y Argentina tenían este punto de vista a grandes rasgos. El único país que durante el debate se opuso unívocamente al principio de la autodeterminación para los pueblos indígenas fue Estados Unidos. (En el debate final Argentina alegó que estaba de acuerdo con los EE.UU, aunque en la declaración del gobierno argumentó claramente que la autodeterminación, si fuera aceptada, debería tener lugar dentro del marco del estado).

Esto constituyó un cambio considerable en las opiniones de los gobiernos desde el año anterior. Los gobiernos asiáticos se movieron marcadamente hacia una posición más progresista, mientras que los gobiernos latinoamericanos estaban dispuestos a argumentar en favor del principio de la autodeterminación, siempre y cuando se protegiera la integridad territorial del estado.

En respuesta, los representantes indígenas presentaron una amplia explicación de la autodeterminación, que ponía énfasis en su importancia y contestaba directamente las preocupaciones de los gobiernos. Todos los representantes indígenas enfatizaron que la autodeterminación está subyacente en todos los artículos del proyecto de Declaración y establece el vínculo de la noción de los pueblos indígenas como colectividades. La autodeterminación abarca la naturaleza informal de la identidad indígena y la vida cotidiana y también incluye la determinación de la relación entre los pueblos indígenas y el estado. El resultado es partes iguales en diálogo, donde el estado no realiza ninguna interferencia indeseada en los asuntos de los pueblos indígenas.

La autodeterminación indígena cubre áreas sociales, culturales y políticas, así como también el control sobre el uso de sus recursos. Durante toda la discusión, los representantes indígenas hicieron énfasis en que son pueblos que deberían ser reconocidos y tratados como iguales por todos los otros pueblos. Hacer otra cosa es discriminación racial. Por esta razón, el derecho a la autodeterminación de los pueblos indígenas no debería estar sujeto a condicionamientos.

La cuestión de si la autodeterminación indígena puede ser considerada "interna" en oposición a la autodeterminación "externa" de los estados era de preocupación para algunos gobiernos. Los pueblos indígenas encontraron que este concepto era difícil de comprender porque todas las actividades internacionales, como la participación en la ONU constituyen una forma de autodeterminación externa; todos los tratados realizados con los estados por los pueblos indígenas son también autodeterminación externa; mientras que para los pueblos indígenas, externa refiere a cualquier cosa fuera de sus territorios. Por esta razón, los pueblos indígenas eran de la opinión de que la distinción interna/externa era una falsa dicotomía.

Los pueblos indígenas también respondieron a las preocupaciones de los gobiernos relativas a la integridad territorial. Señalaron que la Declaración de la ONU sobre Relaciones Amistosas establece claramente las condiciones por las cuales los estados pueden ceder y esas condiciones brindan el contexto legal para discutir la problemática de la separación de los pueblos de los estados. Aunque los pueblos indígenas declararon claramente en la reunión que la independencia no era su objetivo particular, como pueblos, iguales a todos los otros, sus derechos deberían estar incluidos en el marco legal internacional y las prácticas consuetudinarias que respetan la integridad territorial estatal, así como también las condiciones reconocidas según las cuales se forman nuevos estados.

Los pueblos indígenas creían que sus puntos de vista eran fuertes y que la reunión no debería tener dificultades en reconocer el principio a la autodeterminación como un punto de partida para futuras discusiones.

Discusión sobre el Artículo 15 - Los gobiernos intentan un cambio de redacción

La Parte IV del proyecto de Declaración (Artículos 15-18) trata sobre la educación, la información pública, los medios de difusión y los derechos laborales. La Presidencia consideraba que esta sección no polémica debería haber sido un punto de partida para adoptar algunos de los artículos de la Declaración. Esta esperanza fue de corta vida. Aun-

que las declaraciones de los gobiernos parecían aprobar toda la sección en principio, inevitablemente uno o dos propusieron cambios a cada artículo.

Los representantes indígenas habían dejado en claro que no aceptarían ningún cambio al texto. Como todas las discusiones tuvieron lugar en las sesiones informales de la reunión y nada podía ser aprobado sin el consentimiento de todos los participantes, la constante demanda de algunos gobiernos de volver a redactar el texto condujo a la no adopción de los artículos.

El artículo 15 cubre cuatro elementos: los pueblos indígenas tienen derecho a la educación estatal; tienen el derecho de establecer y controlar sus propios sistemas e instituciones educativos; los niños indígenas fuera de sus comunidades tienen el derecho a la educación en su propia cultura y lengua; y los estados proveerán los recursos apropiados para estos propósitos.

Las preocupaciones de los gobiernos sobre el Artículo 15 cubrían tres áreas principales - todas las cuales debilitaban substancialmente al artículo. Los Estados Unidos, por ejemplo, insistían que toda la educación bajo control indígena debería estar sujeta a normas estatales mínimas. Un representante indígena de Hawai'i respondió inmediatamente, conjurando la vívida imagen de inspectores educativos gubernamentales siguiendo a los mayores cuando les enseñaban a los jóvenes como pescar o plantar.

Otra preocupación, planteada por Brasil, era si la educación bilingüe era práctica en un país con más de 170 lenguas indígenas diferentes. Otros gobiernos señalaron algo paralelo, si los niños indígenas fuera de sus comunidades podían tener siempre acceso a la educación a su propia cultura y lengua. A algunos gobiernos no les agradaba el aspecto del artículo que les requería proveer recursos para la educación de los pueblos indígenas.

No todos los gobiernos querían debilitar el artículo. México, Noruega y Finlandia, pensaban que una referencia más directa a la educación adulta sería fortalecedora; aunque los representantes indígenas respondieron que el uso del término "pueblos indígenas" cubre una aplicación comprehensiva del texto.

764

Los representantes indigenas contestaron a los puntos generales de los gobiernos argumentando que el articulo refiere tanto al acceso a la educación estatal como al respeto y reconocimiento de los propios sistemas educativos de los pueblos indigenas. No incluir ambos elementos seria violar el principio del articulo. En lo relativo a la ayuda para los indigenas fuera de sus territorios y la provisión de recursos para la educación indigena, los participantes indigenas respondieron que la Declaración es un documento aspirativo que tiene el objetivo de brindar el impetu para que los estados y los pueblos indigenas trabajen juntos para resolver estas dificultades, no una prescripción para una solución inmediata.

Este debate fue la primera sesión informal de la reunión. Quedó claro que no habia consenso con respecto al texto. Durante el segundo dia de la reunión, el grupo CANZUS comenzó a plantear la idea de un grupo de redacción. Se reunieron con la Presidencia y otros gobiernos, pero esta idea fue rápidamente detenida por los paises Nórdicos porque era opuesta al acuerdo sobre procedimientos realizado al comienzo de la reunión. Durante el martes y el miércoles de la primera semana, el grupo CANZUS convocó a reuniones con los indigenas y otros bloques gubernamentales. Parecian ansiosos por comenzar el proceso de redacción. Durante estas discusiones, el grupo CANZUS planteó una nueva redacción "no imputable" del Articulo 15:

> "Los niños indigenas tienen el derecho a todos los niveles y formas de educación del Estado en la mis*ma base que otros miembros de la comunidad nacional*. Todos los pueblos indigenas también tiene este derecho y el derecho a establecer y controlar sus propios sistemas e instituciones educativas, brindando educación en sus propias lenguas, de una forma apropiada a sus métodos culturales de enseñanza y aprendizaje *de acuerdo con normas educativas aplicables*.
>
> Los niños indigenas que viven fuera de sus comunidades *deberian tener* un acceso *razonable* a la educación en su propia cultura y lengua. Los estados *deberian proveer* los recursos apropiados para estos propósitos."

Las palabras en cursiva son agregados o sustracciones del texto original que era considerablemente más fuerte. La reacción indigena fue

rápida en oponerse a esta propuesta porque los cambios sugeridos, particularmente en el primer párrafo socavarian el propio principio de educación bilingüe y bicultural, contenido en el proyecto de Declaración.

Después de consultas, la Presidencia acordó recibir propuestas para enmiendas al proyecto de Declaración, pero no las incorporaria a la reunión formal. Después de este episodio, la discusión se calmó y examinó el resto de los articulos de la Sección IV.

Discusión sobre los otros artículos de la Sección IV

El Artículo 16 sobre educación e información pública fue apoyado por todos los representantes indigenas y prácticamente todos los gobiernos. Canadá opinaba que podia ser vinculado al Artículo 17 sobre los medios de difusión, pero por lo demás no existian preocupaciones con respecto al texto. La misma reacción surgió frente a los Artículos 17 sobre los medios de difusión y el Artículo 18 sobre la aplicación de los derechos laborales a los pueblos indigenas. Los EE.UU. argumentaron que el Artículo 17 deberia enfatizar el tratamiento no-discriminatorio por parte de los medios de difusión en vez de tener un acceso igual y Argentina consideraba que el texto podia ser "mejorado". Aparte de esto, no había importantes desacuerdos. El Artículo 18 era también ampliamente aceptable para los gobiernos. Unos pocos gobiernos realizaron sugerencias menores como querer reiterar el término "adversa" después del término "discriminación". Algunos gobiernos querian que se pusiera énfasis en los derechos individuales, pero los participantes indigenas señalaron que los derechos laborales cubren a colectividades tanto como a individuos.

La Presidencia tenía la esperanza de que algunos de los Artículos de la Sección IV fueran adoptados porque eran los menos polémicos. En la discusión general al final de la reunión, los paises Nórdicos propusieron que, aunque la sección pudiera no estar perfectamente redactada, el texto deberia ser aprobado para su primera lectura. Esto recibió algún apoyo de los gobiernos positivos como Bolivia y Fiyi, mientras que muchos de los gobiernos latinoamericanos se movian hacia esta opinión. Desdichadamente, los Estados Unidos y el grupo CAN-

ZUS se opusieron a la adopción, y Brasil y Argentina los siguieron. De esta forma se perdió una importante oportunidad para adoptar artículos importantes.

Artículos 43 y 5 - Los primeros artículos adoptados

A las 11.40 de la mañana del miércoles 5 de noviembre, la Presidencia detuvo la sesión informal y convocó a una reunión formal. Todos permanecieron exactamente en la misma posición y escucharon a la Presidencia decir que se habia llegado a un consenso sobre el Artículo 43 ("Todos los derechos y libertades reconocidos en el mismo son igualmente garantizados a los individuos indigenas masculinos y femeninos"). Pidió la adopción del Artículo 43 y martilló la primera aprobación del primer Artículo del proyecto de Declaración. Ningún gobierno se opuso al artículo. A las 11.41 de la mañana, se había retomado la sesión informal y la discusión pasó al Artículo 5.

Este artículo establece que "todo individuo indígena tiene el derecho a la nacionalidad". Los gobiernos estaban ampliamente de acuerdo con esto, aunque varios gobiernos consideraron que la discusión sobre el derecho a pertenecer a una comunidad y nación indígena del Artículo 9 y la ciudadanía indígena del Artículo 32 deberían ser examinada en mayor detalle más adelante. Desdichadamente, el representante de los Estados Unidos quería resolver estas cuestiones inmediatamente y dijo que el Artículo 5 debería referirse a la nacionalidad estatal y no a la ciudadanía en una nación indígena. Esto se apropió de la discusión y quedó claro que unos pocos gobiernos, como los EE.UU., Argentina y Brasil querían restringir la interpretación de los artículos.

La Presidencia, logró que la reunión llegara a un consenso y el texto fue aprobado. No obstante, quedó claro que el principio del Artículo no fue interpretado de la misma manera por los EE.UU., Brasil y Argentina que por los pueblos indígenas. La Presidencia logró que se llegara a un consenso mediante un acuerdo con el representante de los EE.UU. de hacer una referencia a esta preocupación en el informe final. A pesar de esto, el grupo indígena estaba satisfecho con que se hubiera aprobado un segundo artículo.

Sin embargo, cuando se examinan los dos artículos aprobados, queda claro rápidamente que son dos artículos que tratan exclusivamente de individuos indígenas y en realidad no agregan nada al repertorio internacional de previsiones para los pueblos indígenas como un todo. No obstante, se aprobaron dos artículos y esto en sí mismo fue un paso histórico en el reconocimiento de la Declaración de los Derechos de los Pueblos Indígenas.

Artículos 14, 44 y 45 - Sale a relucir el término "pueblos"

El Artículo 14 garantiza el derecho de los pueblos indígenas a "revitalizar, usar, desarrollar y transmitir a futuras generaciones sus historias, lenguas, tradiciones orales, filosofías, sistemas de escritura y literatura, y a designar sus propios nombres para las comunidades, lugares y personas". Si bien los gobiernos no tenían dificultad con esta parte del Artículo, la segunda declaración que implica obligaciones estatales encontró resistencia: "Los Estados tomarán medidas efectivas, cuando cualquier derecho de los pueblos indígenas pueda ser amenazado, para asegurar que este derecho sea protegido y también para asegurar que ellos puedan comprender y ser comprendidos en los procedimientos políticos, legales y administrativos, cuando sea necesario mediante el otorgamiento de interpretación o por otros medios apropiados".

Para demostrar la importancia de la segunda parte de este párrafo, Willie Littlechild, un representante indígena del Canadá habló completamente en su propia lengua y cuando la sala pidió una traducción, explicó que esto probaba la necesidad de adoptar el Artículo 14 completo. No obstante los gobiernos se quejaron de que el segundo párrafo no "era claro" o que ellos no comprendían "su implicancia". Estos son eufemismos que expresan un deseo de "aclarar" (es decir, limitar) su significado o incluso eliminar las obligaciones de los estados.

El gobierno australiano intentó proponer que en todo el texto del proyecto de Declaración la palabra "deberán" debería ser reemplazada por el término más aspirativo "deberían", lo cual, argumentó, era el lenguaje de las Declaraciones. Sin embargo, la delegación indígena de Australia respondió inmediatamente señalando que la Declaración Universal de los Derechos Humanos está llena de "deberán". Esta re-

acción fue solamente un ejemplo de como los representantes indígenas después de 14 años de trabajo con este texto mostraron un conocimiento considerablemente mayor que la mayoría de los representantes de los gobiernos. Por cierto, "ganaron" los argumentos regularmente durante toda la discusión. Desgraciadamente, las decisiones finales no estuvieron basadas en la lógica o en la moral, sino en la política, y aquí es donde aparecieron las fricciones en los párrafos finales en discusión.

El Artículo 44 dice "Nada en esta Declaración puede ser interpretado como una disminución o extinción de derechos existentes o futuros que los pueblos indígenas puedan gozar o puedan adquirir". Si bien la mayoría de los gobiernos apoyaban el texto tal cual está, los Estados Unidos y Rusia objetaron el término "derechos futuros" - lo cual fue disputado inmediatamente por los representantes indígenas ya que esto limitaría la Declaración a todos los derechos reconocidos hasta su adopción. Sin embargo, la discusión principal sobre el Artículo 44 surgió cuando el gobierno de Brasil planteó la cuestión de la "s" en el término pueblos indígenas, recomendando que fuera puesto entre paréntesis (registrado como no decidido). El gobierno francés fue aún más lejos y propuso un "cambio técnico" de "pueblos" a "poblaciones".

Esto causó una fuerte resistencia entre los representantes indígenas y muchos gobiernos. No sólo se daba razón del término en el informe, donde el término es aceptado por la Presidencia con y sin la "s", sino que también planteaba la cuestión de poner la palabra entre paréntesis, lo cual hasta ahora había sido escrupulosamente evitado por la Presidencia para no ultrajar a los participantes indígenas. Durante el receso, algunos miembros del grupo indígena prepararon carteles similares a los usados en la Conferencia sobre Derechos Humanos de Viena consistente de una gran "S", los cuales fueron desplegados por los pueblos indígenas (e incluso por algunos gobiernos) durante el debate subsiguiente.

Los representantes indígenas expresaron claramente que ciertos gobiernos estaban insistiendo sobre el hecho de que el proyecto de Declaración debe contener los derechos de los individuos indígenas. Mick Dodson, de Australia, señaló que el Comité de Derechos Huma-

nos y otros organismos de tratados de la ONU como el Comité sobre la Eliminación de la Discriminación Racial utilizan el término "pueblos indígenas" con la "s". Ted Moses, del Gran Concejo de los Cree, señaló que no reconocer la "s" en pueblos era un acto de discriminación racial porque los pueblos indígenas deberían ser tratados colectivamente de la misma forma que cualquier otro pueblo. Otros destacaron que considerar a los pueblos indígenas como miembros individuales de una población minoritaria es erróneo. En respuesta, tanto Brasil como Francia expresaron que aceptaban la noción de los derechos colectivos, pero todavía no estaban convencidos sobre el término "pueblos".

El Artículo 44 no fue adoptado y le siguió una breve discusión sobre el Artículo 45 "Nada en esta Declaración debe ser interpretado como implicando para cualquier Estado, grupo o persona ningún derecho de dedicarse a cualquier actividad y a realizar cualquier acto contrario a la Carta de las Naciones Unidas". La mayoría de los gobiernos lo apoyaron, aunque Australia preguntó por qué especificaba personas y grupos y mencionaba exclusivamente la Carta de la ONU. Como no hubo una respuesta inmediata a este punto, la discusión se diluyó. El debate sobre el proyecto de Declaración finalizó por otro año más. Lo único que restaba era el informe.

El Informe Final

Aunque las primeras páginas del informe final habían estado disponibles durante muchos días, el resto del texto, aunque breve, no fue publicitado hasta la tarde del día final de la reunión. La principal discusión concernía al texto que describía la discusión sobre la autodeterminación. La Presidencia había hecho circular unas cuantas redacciones preliminares, pero nadie sabía qué era lo que iba a proponer. Al final, el texto del informe fue muy débil y en vez de reflejar la discusión que realmente tuvo lugar en la sala, pareció a muchos como una visión politizada de lo que ciertos gobiernos querían ver reflejado.

Los pueblos indígenas habían tenido la esperanza de que el informe reflejaría que prácticamente todos los gobiernos con la excepción de los EE.UU., habían aprobado el principio de la autodeterminación

para los pueblos indígenas. Esto habría demostrado el amplio consenso que los pueblos indígenas habían sentido surgir durante la sesión informal. No obstante, el texto de la Presidencia separaba las posiciones de los estados, debilitando así la amplitud del apoyo. El informe decía que "algunos Estados apoyaban el principio contenido en la redacción del Artículo 3". Las listas hechas por los pueblos indígenas mostraban que la mayoría de los Estados apoyaban este punto de vista. El informe dividía luego los estados en aquellos que deseaban una aclaración mayor, aquellos que les preocupaba la secesión y aquellos estados (en realidad uno - los EE.UU., o quizá dos si se incluyera la ambigua declaración de Argentina) que se oponían. Esto dio la impresión de que sólo algunos Estados apoyaban el principio de la autodeterminación. Sin embargo, cuando se lee cuidadosamente el informe junto con la lista, todavía queda claro que la mayoría de los estados apoyaron el principio de la autodeterminación para los pueblos indígenas con la previsón de que las aclaraciones tenían que ser tratadas más adelante. Sin embargo, todos los participantes de la reunión tenían bastante claro que sólo los EE.UU. estaban unívocamente opuestos a la noción.

Cuando los pueblos indígenas trataron de destacar esto a la Presidencia, la misma sentenció que sólo aquellas partes directamente referidas en el texto del informe tenían el derecho de solicitar enmiendas. Esto significó que los pueblos indígenas no podían hacer ningún comentario sobre cómo se informó sobre los gobiernos en el informe. Como resultado, los gobiernos buscaron su propio consenso basado en el mínimo común denominador del acuerdo, y los pueblos indígenas no pudieron decir nada, aunque ellos consideraban que el texto acordado no era preciso. El resultado fue una creciente frustración del grupo indígena. Cuando unos pocos oradores fueron cortados en sus discursos, algunos se retiraron de la sala de reuniones en la medida que perdían la paciencia. Las cosas se calmaron más tarde y el informe fue aprobado por la reunión formal. Aunque el informe podría haber sido más fuerte, los representantes indígenas sintieron que no

podían cambiar nada más y que habían defendido sus derechos hasta el límite.

Conclusión

El avance más importante acaecido en el tercer Grupo de Trabajo Abierto fue en el área de procedimientos. Durante toda la discusión del texto los representantes indígenas tuvieron efectivamente una plena y libre participación, tanto en la asistencia, en la expresión como en la toma de decisiones. Sin embargo, esto sucedió "informalmente" y cuando se discutió el informe final, el grupo indígena sintió que su participación fue bajo presión.

Si bien los pueblos indígenas tenían un veto sobre muchos cambios al texto del proyecto de Declaración con los cuales no acordaban, al final, no necesitaron ejercer este derecho, ya que no hubo ningún acuerdo entre los gobiernos sobre ningún artículo aparte de los dos que fueron adoptados. El intento de cambiar el texto se centró en torno al grupo CANZUS, particularmente los gobiernos de Estados Unidos y Australia. La forma enérgica por la cual trataron de impulsar los cambios fue considerada por otros gobiernos como obstructiva. Los EE.UU., en particular, se aislaron cada vez más durante el transcurso de la reunión, hasta la medida en que la alianza grupal CANZUS parecía bastante temblequeante al final de la segunda semana.

Cuando los representantes indígenas abandonaron el Tercer Grupo de Trabajo, pudieron sentir la satisfacción de que el texto del proyecto de Declaración permanece intacto durante un año más. La coordinación del grupo indígena en la defensa del texto fue sumamente efectiva durante toda la reunión. Como dijo un líder australiano, "Cada vez que los gobiernos surgían con argumentos contra los artículos, estábamos prontos para ellos".

Después de catorce años de experiencia, es claro que la mayoría de los representantes indígenas de la sala eran mucho más expertos que los delegados de los gobiernos. Además, como las instrucciones para los delegados de los gobiernos generalmente provenían de sectores de la burocracia que están fuera de contacto con las cuestiones indígenas, las afirmaciones políticas e ideológicas realizadas por algunos gobiernos frecuentemente no tenían un contenido ni factual ni lógico.

Cuando surgían los argumentos de los asientos de los gobiernos en el frente, los representantes indígenas estaban prontos con lúcidas y sucintas respuestas. Relacionaron los ataques de los gobiernos a la redacción con otras previsiones del derecho internacional y conectaron las consecuencias de los cambios del texto a sucesos reales en sus comunidades. Además, fueron aprobados dos artículos y esto indica que ha habido algo de movimiento en el trabajo de la Comisión de Derechos Humanos.

Por otro lado, los pueblos indígenas comprendieron que la reunión no había avanzado mucho. Los pueblos indígenas habían luchado por que no se hicieran cambios al texto, pero habían querido identificar algunas áreas donde se podía lograr consenso, preferiblemente en el texto, pero también de principio. Sin embargo, esto no sucedió. Los cuatro artículos sobre educación, información pública, medios de difusión y derechos laborales no eran muy polémicos, y con un poquito más de buena voluntad, los gobiernos podrían haber adoptado un "capítulo" de la Declaración. Otra oportunidad que se perdió fue que la reunión, con un poco más de negociación y discusión, estaba bastante cerca de asumir una propuesta del gobierno de Dinamarca de que el derecho de Autodeterminación para los Pueblos Indígenas fuera reconocido en principio.

Estos dos acuerdos hubieran enviado un importante mensaje a los pueblos indígenas y sus comunidades, demostrando la buena voluntad de los gobiernos y un importante deseo de avanzar en lo que respecto al proyecto de Declaración. La aprobación de partes polémicas del texto en principio, también habría demostrado que existía algún acuerdo sobre los derechos de los pueblos indígenas consagrados en el proyecto de Declaración. Desgraciadamente esto no sucedió. Los dos artículos adoptados son, en realidad, bastante inocuos ya que no se relacionan específicamente con los pueblos indígenas, sino más bien a cualquier individuo que vive en un estado.

No obstante, las actitudes de muchos gobiernos han sufrido un cambio marcadamente progresista durante el último año, particularmente las de Asia y las de algunos países latinoamericanos como Venezuela. Sin embargo, es incierto si esto constituye cambios permanentes o simplemente molestia ante las actitudes retrógradas del grupo

773

CANZUS. No obstante, existía un sentimiento que los gobiernos fueron en general más constructivos durante 1997 y es de esperar que esto continúe en los años futuros.

Mientras tanto, los pueblos indígenas están discutiendo su actual posición futura y trabajando sobre estrategias para defender el proyecto de Declaración el próximo año. Como dijeron varios representantes - "Sólo podemos encarar un año a la vez".

Posiciones de los gobiernos

Cálido significa que los gobiernos aceptan ampliamente el texto. Tibio significa que los gobiernos aceptan los principios pero les agradaría algunos cambios menores. Los países templados son coherentes en la mayoría de los puntos pero quisieran cambios sustanciales en ciertas áreas mientras que los participantes fríos quieren cambios sustanciales en derechos importantes como la autodeterminación, los derechos territoriales o los derechos colectivos. # significa una posición peor que en 1996 y * significa una mejora.

Fríos	Templados	Tibios	Cálidos
Países activos			
Argentina	Australia #	China *	Colombia
Brasil	Venezuela	N. Zealanda *	Finlandia
Francia	Bangladesh *	Suecia *	Bolivia
Japón		Rusia	Dinamarca
EE.UU		Canadá	Noruega *
		México	Fiyi
		Chile	Pakistán *
		India *	
		Sudáfrica	
		Kenia	
		Estonia	
		Panamá	
		El Salvador	
		Ucrania	

Fríos	Templados	Tibios	Cálidos
Países silenciosos			
Nigeria	Indonesia	Filipinas *	Cuba
	Malaysia	España	Nicaragua
	Alemania	Reino Unido	
	Nepal	Holanda	

Este esquema general hecho durante los dos últimos años ha sido más desarrollado por varios participantes de la reunión en otra categoría por temas.

LA 54ª SESIÓN DE LA COMISIÓN DE DERECHOS HUMANOS DE LA ONU

Por Jens Dahl y Lola García-Alix

La reunión, celebrada en Ginebra del 16 de marzo al 24 de abril, atrajo a una gran cantidad de representantes, tanto gobiernos miembros como observadores. Comparado con la situación de hace sólo pocos años, la cantidad de representantes gubernamentales parece haber aumentado en forma significativa especialmente de Europa oriental y del Tercer Mundo. Esto puede querer decir que participan más gobiernos (hay ahora más miembros permanentes de la Comisión comparado con la situación de hace algunos años), pero la razón puede ser también que cada gobierno envía más delegados. Finalmente, pero quizá no menos importante, también puede ser explicado por una participación más regular de los delegados de los gobiernos.

Lo importante de la última interpretación es una observación sobre la forma en que los gobiernos participan en la reunión. Todavía recordamos la primera vez que tomamos parte de la reunión de la Comisión de Derechos Humanos en 1990. En ese momento, cuando la reunión estaba en marcha, a lo sumo estaban ocupados la mitad de los escaños gubernamentales; los otros estaban vacíos mientras que los

775

representantes no estaban en el edificio o estaban sentados en la cafetería. Además, hubo menos gobiernos que anunciaron su participación en 1990 en comparación con este año.

También recordamos de 1990, que cuando una de las ONGs tenía la palabra, muchos de los representantes gubernamentales se quitaban sus audífonos o comenzaba a leer el Financial Times u otro periódico, o simplemente se iban de la sala. Esto parece ser diferente hoy. Ahora, los representantes de los gobiernos están en la sala la mayoría del tiempo y escuchan los discursos, incluso los de las ONGs. Por supuesto, todavía sucede que algunos gobiernos (como el de los EE.UU.) y algunas ONGs (como Amnistía Internacional) son más escuchados que otros. Pero el interés de los gobiernos ha aumentado en forma obvia.

Vale la pena destacar la tendencia. En primer lugar porque puede interpretarse como un signo de que los gobiernos están más interesados en los temas de derechos humanos, y también que la posición y la influencia de las ONGs ha aumentado. Sin embargo, existe también una tendencia a que ahora hay tantos oradores de ONGs sobre algunos puntos de la agenda que sus presentaciones quedan ahogadas. Algunos días, la reunión siguió hasta las 12 de la noche.

Con el aumento de la cantidad física de representantes de los gobiernos en la sala, se desprende la consecuencia de que las ONGs son menos visibles. Los miembros de los gobiernos (55) de la Comisión de Derechos Humanos se sientan en el frente de la sala semicircular. Detrás de ellos están los delegados de los gobiernos observadores. Estos tienen los mismos derechos que los gobiernos miembros, excepto que no pueden votar (lo cual no es tan frecuente). Detrás de los gobiernos están los estados no-miembros (Suiza y la Santa Sede) y los organismos de las Naciones Unidas como los Altos Comisionados, UNICEF, UNEP, etc. En este grupo encontramos también a las agencias especializadas como la OIT, el FMI y otras. Detrás de estas, tenemos las organizaciones intergubernamentales como, por ejemplo, el Concejo de Europa, la Organización Árabe del Trabajo, etc. Existe un movimiento de liberación (de Palestina) y unas cuantas otras organizaciones como la Cruz Roja y la Orden de Malta. En la parte posterior de la sala hay diversos tipos de ONGs acreditadas.

Mientras que el grupo de ONGs ocupaba más de un tercio de la sala, ahora hay muy pocos sitios disponibles para las mismas y tienen que apretarse con la prensa en un anexo separado de la sala principal.

Este año, el presidente sudafricano fue muy estricto en no permitir a la gente deambular en la sala ni pararse atrás y hablar. Desde el punto de vista de una ONG, la implicación fue que se hizo más difícil hacer trabajo de "lobby" con los delegados de los gobiernos y acercarse a los mismos mientras que estaban en sus asientos. Por otro lado, da una sensación de ser una reunión más seria.

A la jerarquía entre los gobiernos se le sumó una nueva dimensión. Un tablero digitalizado indica ahora cuánto tiempo le queda al orador que tiene la palabra. De esta manera, ahora es muy visible que a los gobiernos se les permite hablar durante 10 minutos y a las ONGs 5 minutos.

La Agenda de la 54ª sesión de la Comisión de Derechos Humanos de la ONU

Esta era la tercera vez que los temas indígenas eran considerados como un punto especial desde que la Comisión decidió agregarlo a su agenda en 1996. Este año, los temas indígenas eran el punto 23 de la agenda y estaba programado para el 26 y 27 de marzo. La votación sobre las resoluciones de este punto tuvieron lugar el 9 de abril.

Punto 23 de la Agenda: "Temas Indígenas"

Bajo el punto 23, las anotaciones de la agenda provisoria destacaban tres tópicos importantes a ser considerados:

- *Un Foro Permanente para los Pueblos Indígenas:* En su sesión del año pasado, la Comisión de Derechos Humanos requirió al Alto Comisionado convocar el segundo seminario sobre un foro permanente para los pueblos indígenas en la organización de las Naciones Unidas. El segundo seminario fue celebrado en Santiago de Chile del 30 de junio al 2 de julio. La Comisión también pidió al Alto Comisionado transmitir el informe del Seminario al Grupo de Trabajo sobre Poblaciones Indígenas, invitándolo a expresar sus puntos de vista y presentar un informe, junto con cual-

777

quier comentario que surgiera de las discusiones del Grupo de Trabajo, a la sesión de la Comisión de este año. Como documentación de este sub-punto, se distribuyó el informe del seminario de Santiago y sus anexos, así como también el informe de la 15ª sesión del Grupo de Trabajo sobre Poblaciones Indígenas.

- *Grupo de Trabajo de la Comisión de Derechos Humanos para elaborar un proyecto de declaración sobre los derechos de los pueblos indígenas:* En 1995, la Comisión decidió establecer un grupo de trabajo intersesional abierto de la Comisión con el propósito de considerar el proyecto de declaración sobre los derechos de los pueblos indígenas, elaborado por el Grupo de Trabajo sobre Poblaciones Indígenas y aprobado por la Subcomisión en 1994. El Grupo de Trabajo intersesional se reunió por tercera vez en Ginebra del 27 de octubre al 7 de noviembre de 1997 (ver el informe de IWGIA de Jens Dahl y Andrew Gray) y como en años anteriores, su informe fue presentado a esta sesión de la Comisión de Derechos Humanos.
- *El Decenio Internacional de los Pueblos Indígenas del Mundo:* En diciembre de 1994, la Asamblea General proclamó el Decenio Internacional de los Pueblos Indígenas del Mundo. La Asamblea General adoptó un Programa de Actividades para el Decenio. La Comisión de Derechos Humanos, en su sesión del año pasado, invitó a la Alta Comisionada para los Derechos Humanos a presentar un informe en su 54ª sesión.
- Resoluciones y recomendaciones de la *Subcomisión sobre la Prevención de la Discriminación y Protección de las Minorías* relativas a los temas indígenas.

Participación indígena

Los participantes indígenas comenzaron a llegar a Ginebra el 24 y 25 de marzo. El día de la última reunión del grupo indígena el 26 de marzo, había 29 representantes indígenas. La mayoría de los representantes eran de Canadá, los Estados Unidos y América Central y del Sur. Desgraciadamente, había sólo una pequeña representación de Asia y del Pacífico.

El Fondo para los Derechos Humanos de los Pueblos Indígenas financió la participación de 9 de los representantes indígenas de India, Filipinas, Canadá, Guatemala, Chile, Panamá, México y las Islas Salomón. Excepto los dos representantes de Chiapas (México) que participaron en las discusiones del punto 10 (que tuvo lugar el 14 de abril), todos los otros llegaron a Ginebra a partir del 25, para participar en la discusión sobre el punto 23 el 27 de marzo.

Martes 24 de marzo: Primera reunión del Grupo Indígena

Esta primera reunión fue convocada por el Consejo Internacional de Tratados Indios. El primer tema que se decidió fue realizar reuniones diarias hasta el 27, el día programado para la discusión del punto sobre temas indígenas. Esta reunión era de una naturaleza meramente informativa relativa a los tópicos a ser discutidos bajo el punto de la agenda sobre "Temas Indígenas" y había 16 representantes indígenas presentes que habían llegado a Ginebra. Los organizadores invitaron a una persona del personal de la Oficina de la Alta Comisionada de la ONU para los Derechos Humanos para que presentara los temas.

Con respecto a las resoluciones sobre el Foro Permanente, se informó que hasta la fecha, había sólo un proyecto de resolución del gobierno de Dinamarca para la Comisión, para establecer un grupo intersesional "ad hoc" para elaborar un mandato para el Foro Permanente que sea presentado a la Comisión en su próxima sesión.

Los representantes indígenas presentes decidieron invitar al representante de Dinamarca a la reunión fijada para el día siguiente, para informarse en mayor detalle sobre la propuesta danesa y discutir una posible estrategia indígena sobre el tema.

También se informó que la Alta Comisionada de la ONU para los Derechos Humanos, Ms Mary Robinson, había sido nombrada por la Asamblea General como Coordinadora del Decenio y va a presentar un informe sobre el progreso del Decenio. Algunos representantes indígenas preguntaron si había planes concretos para celebrar una "evaluación de la mitad del periodo" del Decenio. Existía una opinión mayoritaria entre los participantes sobre la importancia de la realización de esta evaluación dentro de un marco temporal máximo de uno o dos años.

El representante del Concejo Internacional del Tratado Indio, moderador de esta reunión, informó que algunos representantes indígenas habían pedido a la Alta Comisionada para los Derechos Humanos que se reuniera con los representantes indígenas presentes en Ginebra, y que la reunión tendría lugar el 25 a las 10 de la mañana.

Miércoles 25 de marzo

Reunión con Mary Robinson, Alta Comisionada para los Derechos Humanos. La Alta Comisionada lamentó que debido a un intenso programa de trabajo, ella tenía solamente 25 minutos para dialogar con los representantes indígenas. Expresó su satisfacción por reunirse con representantes indígenas, y dijo que esperaba que este tipo de reuniones pudieran ser celebradas regularmente durante otras reuniones en las cuales participan los representantes indígenas.

Ella señaló la importancia del trabajo de la unidad de los pueblos indígenas de su oficina, y lamentó la falta de recursos económicos dentro del presupuesto regular de las Naciones Unidas, pero señaló que se estaba realizando mucho trabajo para obtener fondos externos para la financiación. A este respecto, informó que el gobierno de Holanda había decidido apoyar económicamente el "programa de becas" financiando a una o dos personas para su coordinación. Los gobiernos de Austria y Francia también ofrecieron financiar programas de la unidad de pueblos indígenas. También señaló la importancia de las donaciones de los gobiernos a los Fondos Voluntarios: sobre el Decenio, y el Grupo de Trabajo sobre Poblaciones Indígenas, e informó sobre su trabajo para lograr este objetivo, pidiendo que los representantes indígenas soliciten donaciones de sus gobiernos para los Fondos Voluntarios.

Los representantes de Australia y Canadá invitaron al Alto Comisionado a visitar a sus pueblos durante las planeadas visitas de la Alta Comisionada a estos países, programadas para 1998-99. Otros representantes indígenas destacaron la importancia de su papel como mediadora en situaciones críticas que afectaban a los pueblos indígenas. A este respecto, los representantes de los o*goni* le solicitaron que tomara una acción concreta para aliviar el sufrimiento de su pueblo. Los

representantes sudamericanos también solicitaron su mediación en los casos de Chiapas y Colombia.

Segunda reunión del Grupo Indígena
Esta segunda reunión incluyó la presencia de aquellos participantes indígenas que habían llegado a Ginebra el día anterior, aumentando la cantidad de representantes indígenas presentes a 24.

Los principales puntos de la reunión eran:

Acreditación de representantes indígenas. Varios representantes indígenas señalaron la importancia de que los representantes indígenas hicieran uso de la palabra sobre el punto 23. Hasta ese momento, sólo 7 representantes indígenas se habían inscripto para hacer una declaración. Se acordó pedir a diferentes ONGs con estatus consultivo en la ONU que dieran los derechos a la palabra de IWGIA a los representantes indígenas sobre este punto de la agenda.

El proyecto de declaración sobre el Foro Permanente del gobierno de Dinamarca. El jefe de la delegación danesa, hizo una presentación sobre el proyecto de resolución para que la Comisión de Derechos Humanos establezca un grupo de trabajo "ad hoc". El mandato de este grupo "ad hoc" sería elaborar y considerar propuestas para el mandato de un Foro Permanente. Este grupo de trabajo presentaría su informe a la próxima sesión de la Comisión de Derechos Humanos, para que considerara pasarlo a ECOSOC.

Todos los representantes indígenas que intervinieron después de la presentación del representante danés expresaron su apoyo a esta propuesta, que responde a los puntos de vista expresados por los representantes indígenas durante los seminarios de Copenhague y Santiago y las reuniones regionales de Temuco y Kuna Yala. El gobierno danés continuaría celebrando discusiones con los gobiernos hasta el 6 de abril, la fecha final para presentar proyectos de resoluciones sobre el punto 23. Los representantes indígenas expresaron al gobierno danés su interés de ser mantenidos informados sobre el desarrollo de las negociaciones.

781

Estudio sobre Tratados. Miguel Alfonso Martínez, representante del gobierno de Cuba y miembro de la Subcomisión y Grupo de Trabajo sobre Poblaciones Indígenas, fue también invitado a esta reunión. El representante cubano informó que tenía la esperanza de poder presentar su informe final sobre el Estudio de Tratados durante la próxima sesión del Grupo de Trabajo sobre Poblaciones Indígenas.

Expresó que su interés en estar presente en la actual reunión era escuchar las opiniones de los representantes indígenas sobre la situación de la Declaración sobre los Derechos de los Pueblos Indígenas y el establecimiento de un Foro Permanente. Con respecto a esto, dijo que había una recomendación de la Subcomisión de que este tópico se discutiera en el Grupo de Trabajo sobre Poblaciones Indígenas, y que le gustaría oír las opiniones de los representantes indígenas al respecto.

En lo relativo a la *Declaración sobre los Derechos de los Pueblos Indígenas*, el representante del Gran Concejo de los Cree, informó sobre la última reunión del Grupo de Trabajo. Expresó su preocupación con respecto a la situación en la cual se encuentra el proceso actualmente, en la cual los gobiernos, particularmente aquellos que asumen la posición del grupo llamado CANZUS (el grupo de gobiernos de Canadá, Australia, Nueva Zelanda y los EE.UU.), están obstruyendo el establecimiento de un diálogo constructivo.

Con respecto a una posible estrategia, el representante del Centro de Recursos de Derecho Indio hizo un análisis de la actual situación de la declaración y planteó la cuestión de cómo proceder con el trabajo para la adopción de una declaración fuerte y efectiva. Sugirió que los pueblos indígenas y los gobiernos hagan un compromiso, algo que se llamaría un "compromiso ético", que signifique la apertura de un proceso de discusión con los gobiernos para lograr la adopción de una declaración lo más fuerte posible.

En respuesta, los representantes indígenas reafirmaron su obligación de mantener la integridad del documento, pero acordaron sobre la necesidad de analizar y discutir una estrategia indígena consensual sobre la declaración antes de la próxima reunión del grupo de trabajo. Con respecto a esto, se señaló la necesidad de una estrategia indígena

y afirmaron que los gobiernos ya están elaborando su propia estrategia.

Jueves 26: tercera reunión del Grupo Indígena

El punto central era la preparación de las intervenciones durante el punto 23. Todos estaban de acuerdo en que los temas centrales eran la importancia de una rápida adopción de la declaración y el establecimiento de un grupo "ad hoc" para elaborar un mandato para el Foro Permanente. Los representantes de América Central y del Sur presentaron los resultados de la Segunda Conferencia Internacional Indígena celebrada en Panamá, y señalaron la importancia de celebrar conferencias regionales sobre este tema. Los representantes de Asia y Nueva Zelanda informaron que están preparando una conferencia regional en Asia y otra en Fiyi para la Región del Pacífico.

El grupo de representantes de América Central y del Sur presentó al grupo para su aprobación, una declaración indígena que solicita el establecimiento de un grupo "ad hoc" para elaborar un mandato sobre el Foro Permanente. Esta declaración fue aceptada por todos los participantes, y se decidió que sería distribuida a todos los gobiernos presentes en la sesión. Todos los presentes fueron alentados a hablar con sus gobiernos y solicitar apoyo para el proyecto de resolución del gobierno danés. A este respecto, los representantes de América Central y del Sur informaron sobre su reunión con GRULAC (grupo de gobiernos de América Latina y el Caribe) y dijeron que Chile, Bolivia, México, Argentina y Guatemala eran positivos al establecimiento del grupo "ad hoc", mientras que Cuba, Perú y Brasil expresaron una fuerte oposición al proyecto de resolución danés.

Varios representantes indígenas expresaron su preocupación de que ciertos gobiernos tenían la intención de eliminar el punto sobre "Temas Indígenas" de la agenda de la Comisión, señalando la necesidad de destacar la importancia de tener un punto separado sobre temas indígenas en la agenda.

783

La Comisión de Derechos Humanos de la ONU: Discusión del Punto 23: "Temas Indígenas"

El punto fue abierto el jueves 26 con la presentación del Embajador Urrutia del informe del Grupo de Trabajo sobre la Declaración y continuó el viernes 27. En total, 15 gobiernos y 30 ONGs hablaron sobre este punto, el cual finalizó el 27 de marzo, después de una extensión a una sesión vespertina el 27 de marzo.

El Embajador Urrutia abrió el punto de la agenda informando sobre la Tercera sesión del Grupo de Trabajo Intersesional. Dijo que el grupo de trabajo se enfrenta a un doble desafío, el establecimiento de una atmósfera de confianza entre los gobiernos y los pueblos indígenas y el logro de resultados concretos. Señaló que se habían logrado resultados, especialmente en lo referente al método de trabajo aprobado en la última sesión, adoptando la estructura de sesiones formales e informales. La participación de 123 organizaciones indígenas y ONGs otorgan a este grupo de trabajo un sentido especial de legitimidad

Afirmó que había habido un progreso concreto y sustancial con la adopción de los artículos 43 y 5, que se había debatido otros artículos, y se había propuesto enmiendas que deberían ser debatidas durante la próxima sesión. Con respecto a esto, señaló la importancia de la discusión del Artículo 3, que refiere a la autodeterminación de los pueblos indígenas. Según Urrutia, los resultados fueron satisfactorios y pidió a la Comisión que continuara con el trabajo, pero que una simple renovación del mandato no sería suficiente. Sería necesario un compromiso de flexibilidad entre los gobiernos y los pueblos indígenas; y concluyó diciendo que el texto puede y debe ser mejorado. Tanto los gobiernos como los pueblos indígenas tienen la responsabilidad de superar las dificultades.

Viernes 27 de marzo

La sesión del 27 fue dedicada completamente al punto sobre Temas Indígenas. Entre los gobiernos, Nueva Zelanda no hizo referencias concretas al tema de la declaración ni al Foro Permanente, pero reiteró su compromiso con las iniciativas internacionales para mejorar la situación de los pueblos indígenas.

Canadá expresó su gratitud a la Presidencia del Grupo de Trabajo sobre el Proyecto de Declaración por sus esfuerzos para apoyar el diálogo durante el Grupo de Trabajo Intersesional sobre la Declaración. Destacó la necesidad de establecer un diálogo más constructivo en torno a la declaración, y expresó la necesidad de que los gobiernos y los pueblos indígenas asumieran una actitud más constructiva durante la próxima sesión. Canadá expresó su esperanza de que surgiera una declaración fuerte de este grupo de trabajo y presentó un proyecto de resolución para que el Grupo de Trabajo Intersesional de la Comisión de Derechos Humanos de la ONU continúe su trabajo en 1998.

Entre los gobiernos latinoamericanos, Argentina, Chile, Guatemala y Bolivia expresaron su compromiso de seguimiento de los objetivos del Decenio: la adopción de la declaración y el establecimiento de un Foro Permanente. Con respecto a lo último, expresaron su apoyo a las iniciativas que sirvan para hacer avanzar las discusiones sobre este tema, y consecuentemente, dijeron que el proyecto de resolución de Dinamarca podría servir para continuar las discusiones. Por el otro lado, Brasil dijo que era demasiado pronto para tomar cualquier decisión sobre el tema de un Foro Permanente, ya que hasta la fecha, no había habido suficientes discusiones sobre la necesidad de establecer un órgano de esta naturaleza. Cuba apoyó la decisión de la Subcomisión de que el Grupo de Trabajo sobre Poblaciones Indígenas fuera el foro para discutir los temas todavía no definidos relativos al "posible" establecimiento de un Foro Permanente. Rusia también expresó su apoyo a que el tema del Foro Permanente fuera discutido en el Grupo de Trabajo sobre Poblaciones Indígenas. La intervención en nombre de los países nórdicos fue hecha por el Primer Ministro de Groenlandia, el Sr. Jonathan Motzfeldt. En su presentación, dijo que la recomendación de la Conferencia de Viena de establecer un Foro Permanente, después de hacerse dos seminarios sobre el tema, está ya en estado de que se tome una acción concreta, y sugirió que la Comisión estableciera un grupo "ad hoc" para elaborar una propuesta de mandato. Con relación al Grupo de Trabajo sobre la Declaración, dijo que la adopción de dos artículos representa un paso en la dirección correcta, pero que es necesario acelerar el proceso si la declaración va a ser adoptada dentro del marco temporal del Decenio Internacional. Ex-

hortó a los gobiernos a trabajar en colaboración y consulta más estrecha con los pueblos indígenas con miras a una rápida adopción de la declaración.

Los representantes indígenas realizaron muchas intervenciones fuertes y significativas. Debería notarse que los representantes indígenas no tuvieron problemas para obtener la necesaria acreditación a través de las diferentes ONGs con estatus consultivo. Todos, después de agradecer a las ONGs por ofrecer la oportunidad de hacer uso de la palabra, hablaron luego en nombre de su propia organización.

La gran mayoría de las declaraciones hicieron referencia a los temas de la rápida adopción de la declaración en su forma actual, y el establecimiento de un Foro Permanente. Con respecto a la declaración, se expresó preocupación sobre la demora en su adopción y los esfuerzos de muchos gobiernos de "volverla a redactar", a pesar de la oposición expresada por los pueblos indígenas. El representante de la organización Kuna Napguana, y coordinador regional de la Alianza Internacional de los Pueblos Indígenas y Tribales de los Bosques Tropicales, intervino por IWGIA. En su declaración, hizo referencia a los resultados de la Segunda Conferencia Indígena en Panamá, y considerando las recomendaciones hechas por los seminarios oficiales y las conferencias regionales indígenas celebradas en América Central y del Sur, apoyó la recomendación de establecer un grupo "ad hoc" para que elaborara un proyecto de mandato, estructura e implementación de un Foro Permanente.

Con respecto al Decenio, algunas intervenciones indígenas hicieron referencia a la necesidad de una evaluación de la "mitad del periodo" de las actividades.

Aunque la mayoría de las intervenciones del año pasado hicieron referencia al problema de la participación, este año, sólo pocas intervenciones indígenas hicieron referencias menores sobre este tema.

9 de abril: Punto 23: Votación de resoluciones

La mayoría de los participantes indígenas abandonaron Ginebra cuando la Comisión había discutido el punto 23 (Temas Indígenas). Los dos temas más importantes a ser votados en este punto de la agenda fueron el Proyecto de Declaración y el Foro Permanente. En lo relativo

al Proyecto de Declaración, el informe del grupo intersesional ("Grupo de Trabajo de la Comisión de Derechos Humanos para elaborar un proyecto de declaración de acuerdo con el párrafo 5 de la resolución 49/212 del 23 de diciembre de 1994 de la Asamblea General") fue aceptado y se sugirió una resolución (redactada por Canadá) de que el grupo intersesional continúe con su trabajo.

El otro tema indígena polémico de este año fue la sugerencia para el establecimiento de un Foro Permanente para los pueblos indígenas. La sugerencia de un Foro Permanente bajo el ECOSOC provino originalmente de los pueblos indígenas y luego fue endosado por el gobierno danés, el cual la presentó a la Comisión de Derechos Humanos.

La resolución redactada por Dinamarca-Groenlandia sugirió, antes que nada, el establecimiento de un *grupo de trabajo ad hoc* bajo la Comisión de Derechos Humanos para elaborar y considerar propuestas para un Foro Permanente. La idea es que este grupo "ad hoc" finalice su trabajo dentro de un año o a lo sumo dos y luego presente su informe con las sugerencias a la Comisión de Derechos Humanos para que sea pasada al ECOSOC.

Todos los pueblos indígenas presentes apoyaron esta propuesta aunque hubieran preferido el inmediato establecimiento de un grupo de trabajo bajo ECOSOC. Debería recordarse que esto sucedió en oposición a la decisión tomada por la Subcomisión, la cual hubiera llevado las negociaciones futuras sobre el Foro Permanente de vuelta al Grupo de Trabajo sobre Poblaciones Indígenas. Esta propuesta provino originalmente del miembro cubano del Grupo de Trabajo sobre Poblaciones Indígenas (y miembro de la Subcomisión), quien se opuso firmemente a la resolución danesa haciendo trabajo de "lobby" ante la Comisión de Derechos Humanos para retornar la discusión sobre el Foro Permanente al Grupo de Trabajo sobre Poblaciones Indígenas, un paso que había sido opuesto por los pueblos indígenas en general.

Después del debate del punto 23, los delegados daneses y groenlandeses hicieron trabajo de "lobby" en favor de la resolución danesa, pero como básicamente todos los indígenas se habían ido, hubo poco trabajo de "lobby" de esa parte. Si esto se combina con las observaciones antes referidas, que los gobiernos están más y más interesados en los temas de derechos humanos, vale la pena recordar en el futuro que

las oportunidades para que los pueblos indígenas hagan trabajo de "lobby" han mejorado. El proceso de establecer el Foro Permanente y de lograr que se adopte una Declaración de gran alcance será sumamente difícil, y la necesidad del trabajo de "lobby" indígena no puede ser subrayada suficientemente.

La resolución del Foro Permanente fue redactada por Dinamarca y sugerida por todos los países nórdicos. Luego fue co-patrocinada por Argentina, Bangladesh, Bolivia, Canadá, Chile, Chipre, Estonia, Grecia, Guatemala, Honduras, Letonia, Lituania, México, Nepal, Portugal, Rusia, España, Suiza y Ucrania, y unos cuantos miembros agregaron sus nombre a la lista al final (sólo Argentina, Bangladesh, Canadá, Chile, Guatemala, México, Nepal, Rusia y Ukrania son miembros de la Comisión). Vale la pena destacar que Bangladesh y Canadá se encontraban entre los que apoyaban la resolución. La razón de que lo hiciera Bangladesh puede ser un signo indicativo de que consideran que el llamado proceso de paz con relación a Chittagong Hill Tracts les otorga un nuevo perfil internacional en lo que respecta a los derechos humanos (hasta ahora, Bangladesh no ha reconocido el uso del término pueblos indígenas específicamente para los pueblos de Chittagong Hill Tracts).

Antes de que la resolución sobre el Foro Permanente fuera presentada a votación, hubieron una serie de consultas entre los gobiernos. A pesar del hecho de que se hicieron algunos cambios para hacer aceptable la resolución para los EE.UU., este país igual continuó exigiendo cambios que la hubieran hecho inutilizable. Al final parecía que se habían entregado, pero la votación se convirtió en un verdadero drama.

En la mañana del 9 de abril, se presentaron tres resoluciones sobre pueblos indígenas. La primera (sobre el Grupo de Trabajo sobre Poblaciones Indígenas y el decenio) que fue presentada por Nueva Zelanda fue adoptada por unanimidad. La segunda resolución (sobre el grupo de trabajo intersesional) fue redactada por Canadá y también fue adoptada sin votación. En su explicación de la resolución, Canadá subrayó que estaba en favor de una "declaración fuerte". La tercera resolución (sobre el Foro Permanente) fue presentada por Dinamarca.

Apenas el delegado danés comenzó su explicación, Cuba pidió la palabra (alzando el cartel con el nombre del país).

El procedimiento de votación en la Comisión de Derechos Humanos es el siguiente:

1. La Presidencia anuncia la resolución sugerida.
2. Los países patrocinadores dan una corta explicación.
3. Los países que co-patrocinan la resolución son mencionados por el secretario quien también explica cómo otros países pueden agregar sus nombres a los co-patrocinadores.
4. La Presidencia pregunta si hay miembros que quieren la palabra para realizar comentarios generales breves (sólo los estados miembros pueden hablar cuando se presenta una resolución para su votación).
5. Cuando todos los que lo desean han hablado el país patrocinador recibirá, eventualmente, el uso de la palabra.
6. El secretariado toma la palabra para explicar las implicaciones financieras de la resolución.
7. Los miembros tienen una oportunidad de explicar sus votos.
8. La presidencia pregunta si algún miembro quiere que se pase a votación.
9. En caso contrario, la resolución es adoptada unánimemente (sin votación). Si un solo país lo exige, se pasa a votación.
10. Si un solo un país lo exige se pasa a votación por nombres.
11. Cualquier miembro puede volver a explicar su voto.

El procedimiento puede ser importante para comprender la confusión que siguió a la adopción de la resolución sobre el Foro Permanente.

Cuando la explicación de la resolución sobre un Foro Permanente estuvo finalizada, Cuba tenia la palabra. El representante cubano dio un largo discurso explicando sus preocupaciones sobre las implicaciones financieras de establecer este nuevo grupo de trabajo que haría el mismo trabajo que ya se hace en el Grupo de Trabajo sobre Poblaciones Indígenas y apeló a los co-patrocinadores que explicaran una serie de cuestiones. Él entendia que era prematuro establecer un grupo de trabajo "ad hoc" que discutiría el Foro Permanente antes de que se deci-

diera cómo este debería ser estructurado y dijo también que no existía ninguna razón para la existencia de este grupo ya que la Subcomisión había decidido que la futura discusión sobre este tema tendría lugar en el Grupo de Trabajo sobre Poblaciones Indígenas.

Después de que Dinamarca le contestó, Francia tomó la palabra y preguntó por qué esta resolución podría ser adoptada cuando todas las otras nuevas iniciativas habían sido detenidas hasta que se conocieran las implicaciones financieras. El secretario tomó entonces la palabra y explicó que esta resolución no tenía implicaciones financieras.

El representante cubano tomó la palabra otra vez y prosiguió y prosiguió. Cuando Dinamarca pidió una decisión unánime, la Presidencia pidió a Cuba, Dinamarca y al secretariado que se reunieran durante el almuerzo y volvieran con un acuerdo sobre el aspecto financiero.

Luego de esto hubo una votación sobre tres recomendaciones de la Subcomisión. Dos mociones fueron adoptadas, pero una fue pospuesta porque era la que sugería que el Foro Permanente fuera tratado en el Grupo de Trabajo sobre Poblaciones Indígenas. Esto se decidió a pesar de las protestas del representante cubano.

Durante el almuerzo, Cuba había solicitado un cambio en el párrafo dos de la resolución danesa. Esto fue aceptado, pero cuando se convocó a la reunión, Cuba pidió otra vez la palabra y explicó que no podían aceptar la resolución. Entonces Dinamarca pidió una votación. Cuando la Presidencia preguntó si había algún país que pidiera una votación, ni siquiera Cuba alzó la mano. Esto confundió obviamente a la Presidencia, pero entonces se adoptó unánimemente.

Después de eso debería votarse sobre los temas restantes de la Subcomisión. Ahora, el representante cubano también quería que esto fuera adoptado aunque la resolución dano-groenlandesa lo había hecho obsoleto. Cuando un estado miembro preguntó sobre las implicaciones financieras del Grupo de Trabajo sobre Poblaciones Indígenas al tratar un tema que ya fue decidido que debería ser tratado en un grupo de trabajo dependiente de la Comisión, la Presidencia concluyó que la propuesta era rechazada. Entonces Cuba pidió de nuevo la palabra con una nueva intervención, pero le fue negada por la Presidencia.

790

El texto polémico de la resolución sobre el Foro Permanente es el párrafo 4 que ahora dice: "Decide establecer un grupo de trabajo abierto intersesional ad hoc, con los recursos generales existentes en las Naciones Unidas, para elaborar y considerar más propuestas para el posible establecimiento de un foro permanente para pueblos indígenas dentro del sistema de las Naciones Unidas;". Japón explicó su voto diciendo que estaba en contra de un foro permanente, pero que presentaría sus opiniones en el grupo de trabajo ad hoc. EE.UU. explicó su voto diciendo que entendía al párrafo 4 como que el grupo de trabajo ad hoc podía también considerar al Grupo de Trabajo sobre Poblaciones Indígenas.

Se presume que el grupo de trabajo ad hoc se reunirá en enero o febrero del próximo año. Un tema de suma importancia sera el nombramiento de la presidencia del grupo de trabajo ad hoc.

HACIA UNA POLÍTICA EUROPEA SOBRE EL DESARROLLO Y LA COOPERACIÓN RELATIVA A LOS PUEBLOS INDÍGENAS

Por Brigitte Feiring

Introducción

La Unión Europea (UE) es la mayor cooperadora del mundo en lo que respecta a la cooperación para el desarrollo, tanto a través de las agencias nacionales de sus Estados Miembros como a través de la Comisión Europea. El papel de los pueblos indígenas en los procesos de desarrollo ha recibido una creciente atención durante la última década, ya que se reconoce que es de gran importancia para los objetivos generales de la cooperación europea para el desarrollo: la reducción de la pobreza, el desarrollo sustentable y la observancia de los derechos humanos.

Reconociendo la importancia del tema, varios Estados Miembros de la UE, como Holanda, Alemania, Dinamarca y España, han desarrollado estrategias y políticas específicas para su cooperación con los

pueblos indígenas. Algunos de estos paises han planteado el tema en la UE, para garantizar una posición europea común. En junio de 1997, estos esfuerzos mostraron su primer resultado: el Concejo de Ministros decidió invitar a la Comisión Europea a preparar un documento sobre la política relativa a la cooperación y apoyo de los pueblos indígenas en la Cooperación Europea para el Desarrollo. Basado en este documento, el Concejo de Ministros adoptará una resolución que servirá de guia a la Comisión y a los Estados Miembros en su futura cooperación para el desarrollo con los pueblos indigenas.

Estructura de la UE

Para seguir el proceso hacia una política europea, es útil tener una visión general de las diferentes instituciones de la UE:

La Comisión Europea es el organismo ejecutivo de la UE. La Comisión tiene su sede en Bruselas, Bélgica, pero tiene delegaciones representativas en muchos países en todo el mundo. La Comisión está dividida en una serie de "Directorados Generales" (DGs), y cada uno tiene diferentes responsabilidades. Los DGs de más interés para los pueblos indígenas en paises en desarrollo son DB VIII, responsable de la cooperación para el desarrollo con África, el Caribe y el Pacífico, el DG IB, responsable de la cooperación con Asia y América Latina y el DB XI, responsable del medio ambiente. Estos DGs administran una serie de lineas presupuestarias que financian proyectos y programas que involucran o afectan a los pueblos indígenas.

La Comisión detenta también el derecho a proponer nueva legislación para la UE. Es, por lo tanto, la Comisión la que tiene la responsabilidad de elaborar un documento sobre la política de la UE con respecto a los pueblos indígenas en el contexto de la cooperación para el desarrollo.

El Concejo de Ministros es el foro donde se toma la mayoria de las decisiones, ya que toda la nueva legislación de la UE tiene que ser aprobada por el Concejo. El Concejo está compuesto de un Ministro de cada uno de los Estados Miembros. Diferentes

Ministros participan en las reuniones del Concejo de acuerdo a los tópicos de la agenda (medio ambiente, educación, salud, etc.). El tema de los pueblos indígenas y la cooperación para el desarrollo es tratado por el Concejo de Ministros de Cooperación para el Desarrollo.

El Parlamento Europeo ha tenido hasta el momento una limitada influencia en la UE. El Parlamento tiene que ser consultado en una serie de casos y tiene poderes de decisión conjunta sobre una serie de tópicos. Pero a diferencia de otros Parlamentos, no tiene el derecho de proponer nueva legislación. El Parlamento ha prestado atención durante varios años a los temas indígenas y ha exhortado a la Comisión a tomar acción.

El proceso en la Comisión

Siguiendo la invitación del Concejo de Ministros, la Comisión comenzó a trabajar sobre un documento referente a la política relativa a los pueblos indígenas en octubre de 1997. El trabajo fue asumido por el DB VIII, unidad A/2, que se ocupa del desarrollo humano y social. En suma, el proceso se divide en los siguientes estadios:

- En febrero de 1998 se había elaborado un proyecto de documento en la Comisión y fue distribuido a más de 200 organizaciones indígenas en una consulta abierta.
- En marzo de 1998 la Comisión invitó a 30 expertos indígenas de 27 países en desarrollo a participar en un seminario en Bruselas e intercambiar puntos de vista con el personal de la Comisión.
- Más adelante, durante el mes de marzo, el proyecto de documento fue discutido en un seminario con expertos de los Estados Miembros de la UE.
- En abril, el proyecto de documento fue enmendado de acuerdo a los comentarios recibidos de los expertos de los pueblos indígenas y de los Estados Miembros, y el documento final fue traducido a todos los idiomas de los Estados Miembros.

- En mayo de 1998, el Documento fue presentado al Concejo de Ministros. Se espera que el Concejo de Ministros adoptará una Resolución sobre el tema lo más pronto posible (julio de 1998).

Breve sumario del Documento de la UE

El documento final, llamado "Documento de Trabajo de la Comisión sobre pueblos indígenas y la cooperación para el desarrollo", puede ser obtenido en forma completa a través de la Comisión Europea. Aquí resumiremos sólo algunos de los más importantes puntos y argumentos.

Ámbito de la política propuesta. La política propuesta trata la cuestión de los pueblos indígenas y la cooperación para el desarrollo. Esto significa una limitación geográfica y temática, por la cual la política excluye a los pueblos indígenas de los llamados países desarrollados. Existen también una serie de problemas, intereses y aspiraciones indígenas que no pueden ser resueltos por la cooperación para el desarrollo, sino que deben buscar una solución en otros foros a nivel local, nacional o internacional. Por lo tanto, la política propuesta debería ser considerada como un paso pragmático, que sugiere un marco político general, el cual se espera pueda contribuir a la solución de algunos de los problemas que enfrentan los pueblos indígenas.

Principales argumentos. El documento se basa en los siguientes argumentos principales:
Muchos pueblos indígenas viven en áreas que son fundamentales para la conservación del medio ambiente y la diversidad biológica. Sus sociedades son en general no-industriales, y mantienen prácticas sociales y culturales que permiten un uso sustentable de los recursos. Como pueblos diferenciados, tiene sus propios conceptos y aspiraciones diversos en lo relativo al proceso de desarrollo. Por otro lado, los pueblos indígenas están marginados política, cultural y económicamente y sufren de recurrentes violaciones a sus derechos humanos.

En suma, se debería prestar especial atención a los pueblos indígenas en el proceso de desarrollo porque:

- Sus culturas e identidades son contribuciones invalorables y necesarias para el logro de un desarrollo sustentable.

794

- Desempeñan un papel clave en lo relativo a la conservación y el uso sustentable de la diversidad biológica.
- Son especialmente vulnerables a ser perjudicados en el proceso de desarrollo.

Identificación. La política propone prestar especial atención a los pueblos indígenas, y, por lo tanto, es importante comprender *quienes* son los mismos. Las Naciones Unidas estiman que los pueblos indígenas suman un total de 300 millones de individuos que viven en más de 70 países. Pero el significado, la definición y las implicaciones del concepto "indígena" es un tema de constantes discusiones. En América Latina el concepto refiere a un momento dado en la historia, cuando los colonizadores derrocaron a las sociedades locales: los descendientes de aquellos que habitaron primero el continente son los indígenas de hoy. Pero en África y Asia el panorama es más complicado. Allí, la actual interpretación del concepto sugiere una cierta relación estructural entre el grupo y el estado nacional. Quizá sea imposible medir si los *maasai* o los *pigmeos* llegaron a un área dada antes que otros grupos étnicos - pero comparten muchas de las características que en la práctica caracterizan a los pueblos indígenas:

- Continuidad histórica con sociedades precoloniales
- Un fuerte vínculo con los territorios
- Sistemas sociales, económicos o políticos diferenciados
- Lenguas, cultura y creencias diferenciadas
- Constituyen sectores no-dominantes de la sociedad
- Se autoidentifican como diferentes de la sociedad nacional
- Se vinculan a la red global de pueblos indígenas

El documento de la UE reconoce que no hay una definición universal que pueda abarcar pueblos tan diferentes como los *inuit* de Groenlandia, los *adivasi* de la India, los *quechuas* de la región andina, etc. Deben ser los actores locales quienes exploren y definan las implicaciones locales y las connotaciones de ser indígena, y la UE debe evitar imponer el concepto de ser indígena en cualquier contexto local donde las implicaciones puedan ser potencialmente negativas.

Objetivos. Los objetivos expresados en la política se balancean entre dos consideraciones que podrian parecer contradictorias en una primera mirada. Por un lado los pueblos indígenas están marginados, son pobres, sus derechos humanos son frecuentemente violados y están por lo general excluidos de los procesos de toma de decisión. Por otro lado ellos reafirman su identidad indígena diferenciada y rechazan cualquier intento de asimilación forzada en la sociedad dominante. El desafío para las agencias para el desarrollo es entonces incluir a los pueblos indígenas en el proceso de desarrollo y respetar su diversidad cultural y el reconocimiento de la diversidad del propio concepto de desarrollo.

El objetivo general de la política propuesta por la Comisión Europea refleja este aspecto ético ya que apunta a:

- Destacar el derecho y la capacidad de los pueblos indígenas a controlar su propio desarrollo social, económico y cultural.

La experiencia sugiere que la cooperación para el desarrollo que no contempla la especial situación de los pueblos indígenas conducirá frecuentemente a resultados negativos. Por ejemplo, esto puede significar el reasentamiento forzado, la pérdida de la lengua vernácula o la violencia étnica. El objetivo más pragmático de la política es, por lo tanto:

- Mejorar el impacto positivo de la política europea para el desarrollo sobre los pueblos indígenas, integrando el interés por los pueblos indígenas como un aspecto paralelo de la habilitación humana y la cooperación para el desarrollo.

Implementación. La política propone integrar el interés por los pueblos indígenas como un tema paralelo a todos los niveles de la cooperación europea para el desarrollo en vez de crear una línea presupuestaria especial. "Aislar" a los pueblos indígenas en una línea presupuestaria especial sería marginar el tema y vincularlo solamente al "proyecto tradicional de desarrollo a pequeña escala". Integrar el interés por los pueblos indígenas a todos los niveles significa tomar especial consideración a instrumentos tales como un diálogo sobre política entre la UE y los paises colaboradores, relaciones comerciales, programas de

ajuste estructural, programas sectoriales, proyectos, etc. Este es un enorme desafío, que requerirá tiempo, recursos y mucha investigación, ya que la mayoría de las consideraciones relativas a los pueblos indígenas han sido vinculadas al "nivel de proyecto". Existe una urgente necesidad de investigar cómo evaluar el impacto de las intervenciones macroeconómicas sobre los pueblos indígenas, cómo garantizar su participación en estos procesos, y cómo reflejar sus necesidades en los programas sectoriales.

El documento propone un marco político general y reconoce la necesidad de una acción continua para implementarlo adecuadamente. Como la mayoría de las grandes instituciones, la Comisión sufre de la falta de coherencia y coordinación en sus actividades, una falta de conocimiento detallado de las condiciones locales, recursos restringidos y procedimientos administrativos lentos y rígidos. Lleva tiempo cambiar la práctica de esas grandes instituciones y los pueblos indígenas deberían ser conscientes del papel que pueden jugar en este proceso de implementación.

El nivel de pr oyecto. A nivel de proyecto parece haber un acuerdo general sobre los elementos que deberían ser aplicados cuando se encara el tema de los pueblos indígenas. Estos son:

- consulta previa con los pueblos indígenas
- su informado consentimiento de las actividades encaradas
- su plena participación en todo el ciclo del proyecto
- el uso de medios culturales apropiados de comunicación
- el ajuste de las actividades a la noción indígena de tiempo y toma de decisión.

No obstante, lograr esta plena y libre participación en el proceso de desarrollo no es una tarea fácil:

Cooperaciones complicadas. Los grupos indígenas no son homogéneos y no tienen una red formal institucional para identificar o legitimar la autoridad. En muchas sociedades indígenas existen una serie de instituciones específicas religiosas, sociales políticas y de género. Cómo garantizar la participación indígena, cómo seleccionar los representantes indígenas y cómo alcanzar el consentimiento informado

797

son, por lo tanto, cuestiones que están sujetas a una discusión permanente.

La definición de r oles entre los diferentes colaboradores en el proceso de desarrollo es otro tema de discusión. Existen unos cuantos ejemplos de interacción directa entre la Comisión y los grupos indígenas, pero hasta ahora la mayoría de los proyectos han sido canalizados a través de ONGs. Muchos pueblos indígenas están solicitando una redefinición de estos roles, pero tienen dificultades para cumplir los requisitos de las agencias de cooperación. Esto lleva a la cuestión de la capacitación.

Capacitación. Muchos pueblos indígenas solicitan ayuda para la capacitación. Sin embargo, la capacitación no debería constituir el ajuste de las sociedades indígenas para cumplir con los requisitos de los cooperadores, los cuales socavarán eventualmente las estructuras sociales. La capacitación debería ser entendida como el aumento de la capacidad de las sociedades indígenas para manejar el cambio y adoptar estrategias sustentables a largo plazo. La capacitación debería incluir la capacitación de profesionales indígenas, el fortalecimiento de las instituciones y organizaciones a nivel local, nacional e internacional y el intercambio de experiencias y comunicación entre los pueblos indígenas.

El próximo paso

El documento sobre política y la resolución encarada por el Concejo proponen un contexto político general para la cooperación europea para el desarrollo con los pueblos indígenas. Este es un primer paso en dirección hacia un diálogo intensificado y la colaboración, y ha sido en sí mismo una experiencia muy positiva para la Comisión Europea. El próximo paso tendrá que concentrarse en la implementación práctica del marco político. Esto será probablemente un largo proceso, en el cual los mismos pueblos indígenas deberían representar un papel fundamental.

Documentos de la Comisión Europea a disposición:

"Documento de Trabajo de la Comisión sobre Pueblos Indígenas y la Cooperación para el Desarrollo". El documento está a disposición en los idiomas europeos.

"Summary of comments received on the European Commission's Working Document on Indigenous Peoples and Development Co-operation". El Documento está a disposición solamente en inglés.

En el correr de 1998 estará a disposición un informe completo del seminario celebrado en Bruselas con expertos indígenas, en francés, inglés y español.

La solicitud de estos documentos debe dirigirse a:
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DOCUMENTOS PUBLICADOS EN 1997/98

DOCUMENTOS EN CASTELLANO

RI MAYA' MOLOJ PA IXIMULEW - EL MOVIMIENTO MAYA EN GUATEMALA examina la naturaleza y el perfil del movimiento organizativo maya, las vertientes de ideas, las raíces y factores de su desarrollo. Expone y reflexiona sobre la opresión étnica, las tentativas de organización que ha tenido el pueblo maya hasta la actualidad y esboza los objetivos generales, estrategias y propuestas de soluciones de esta lucha.

Documento IWGIA Nº 20, 1997. Por Demetrio Cojti Cuxil. Editado en colaboración con Cholsamaj, Guatemala. 158 páginas.
ISBN 84-89451-27-3, ISSN 0105-4503, US$ 20,- + franqueo.

DERECHOS HUMANOS Y PUEBLOS INDÍGENAS. UN MANUAL SOBRE EL SISTEMA DE LAS NACIONES UNIDAS describe en detalle los mecanismos internacionales existentes para evitar o reparar las graves violaciones de los derechos fundamentales de los pueblos indígenas.

Este documento pretende disipar el misterio sobre la naturaleza de las Naciones Unidas, disminuir la desconfianza de algunos y moderar el optimismo exagerado de los otros, poniendo a disposición de los lectores un conjunto de información básica sobre las posibilidades y los límites de la acción de las Naciones Unidas en materia de derechos humanos.

Documento Nº 21, 1997. Florencia Roulet. Editado en colaboración con El Consejo de Todas las Tierras. 174 páginas.
ISBN 0108-9927, ISBN 87-980717-7-7, US$ 21,- + franqueo.

800

PATRIMONIO INDÍGENA Y AUTODETERMINACIÓN es un trabajo que busca examinar y analizar críticamente los mecanismos y procesos legales potenciales que podrían ser usados por los pueblos indígenas para proteger y manejar mejor su propiedad cultural e intelectual.

El documento examina el contexto histórico y legal en el cual se ha desarrollado el debate sobre los derechos de los pueblos indígenas y analiza mecanismos tales como el Convenio sobre la Diversidad Biológica y el Acuerdo sobre TRIPS. Finalmente el trabajo analiza los modelos legales alternativos propuestos, conduciendo a una discusión sobre los posibles cursos de acción que los pueblos indígenas podrían tomar para mejorar el nivel de protección y manejo que disponen sobre su propiedad cultural e intelectual.

Documento Nº 22, 1997. Por Tony Simpson. Publicado en colaboración con El Programa para los Pueblos de los Bosques, UICN-Holanda y el Gobierno Autónomo de Groenlandia. 232 páginas.
ISBN 87-984110-0-4, ISSN 0108-9927. US$ 20.- + franqueo.

DERECHOS INDÍGENAS Y CONSERVACIÓN DE LA NATURALEZA, ASUNTOS RELATIVOS A LA AUTOGESTIÓN es el resultado de una conferencia celebrada en Pucallpa, Perú, donde representantes de organizaciones indígenas, ambientalistas y expertos independientes se reunieron para discutir diferentes modelos de manejo de áreas protegidas en América Latina. Este es un tema particularmente importante en la región ya que el 80% de las áreas protegidas en América Latina están habitadas por pueblos indígenas. El encuentro debatió casos de Perú, Bolivia, Paraguay, Colombia, Brasil, Venezuela, Panamá, Honduras y Costa Rica.

Documento IWGIA Nº 23, 1998. Publicado en colaboración con El Programa de los Pueblos de los Bosques, Inglaterra y la Asociación Interétnica de Desarrollo de la Selva Peruana (AIDESEP). Editado por Andrew Gray, Marcus Colchester y Alejandro Parellada. 320 páginas con fotografías.
ISBN 87-984110-4-7, ISSN 0108-9927. US$ 24.- + franqueo.

801

DOCUMENTOS EN INGLÉS

ENSLAVED PEOPLES IN THE 1990S. INDIGENOUS PEOPLES, DEBT BONDAGE AND HUMAN RIGHTS *(Pueblos esclavizados en la década de 1990. Pueblos indígenas, servidumbre por deudas y derechos humanos)* describe y revela cómo los pueblos indígenas sufren la esclavitud generalmente bajo la forma de la servidumbre por deudas y la prostitución. Los casos analizados cubren, en Asia, a los pueblos de India, Nepal, Taiwán, Filipinas e Indonesia. En América del Sur, se revelan casos del Perú, Bolivia y Paraguay. Los pueblos esclavizados son frecuentemente habitantes de los bosques tropicales o tribus montañesas. En el capítulo de apertura, se muestra la actual esclavitud de los años 90 en una perspectiva histórica, pues los editores relacionan la esclavitud de los pueblos indígenas de hoy con la historia general de la esclavitud y la historia de "Anti-Slavery International". Los numerosos casos son ilustrativos de los mecanismos y consecuencias de la esclavitud contemporánea en el mundo moderno.

Document Nº 83, 1997. Publicado en colaboración con "Anti-Slavery International", Inglaterra. Compilado y editado por "Anti-Slavery Internacional". Edición de bolsillo, 224 páginas.
ISBN 0900-918-40-3, ISSN 0105-4503. US$ 27 + franqueo.

HONOUR BOUND: ONION LAKE AND THE SPIRIT OF TREATY SIX. *(Vínculo de Honor: Onion Lake y el Espíritu del Tratado Seis.)* Cuando las Naciones Unidas aprobaron el Estudio sobre Tratados, Acuerdos y otros arreglos constructivos entre los Estados y los Pueblos Indígenas en mayo de 1989, los Jefes del Tratado Seis invitaron al Informante Especial Miguel Alfonso Martínez para que asistiera a una reunión de Ancianos y Jefes del Tratado Seis. La reunión no fue un intento de hacer una reconstrucción histórica. Fue una recreación espiritual y descriptiva de la firma del Tratado Seis, que cubre un área de 130.000 millas cuadradas. El documento de IWGIA

802

intenta reflejar el evento donde los Ancianos discuten las condiciones bajo las cuales fue negociado y firmado el Tratado y sus consecuencias.

Document N° 84, 1997, 127 páginas.
ISBN 87-980717-7-7, ISSN 0105 4503, US$ 18.- + franqueo.

INDIGENOUS PEOPLES, ENVIRONMENT AND DEVELOPMENT *(Pueblos Indígenas, Medio Ambiente y Desarollo)* es una compilación de las actas de la conferencia del mismo nombre celebrada en mayo de 1995 en Zurich, Suiza, suplementada por una serie de otros artículos relevantes sobre el tema. Los autores de los artículos son ambientalistas de renombre, académicos indígenas y no-indígenas y activistas.

El documento está divido en cinco partes. La primera brinda una introducción general del tema. La segunda trata de las interacciones entre "Derechos Indígenas, Autodeterminación y Uso de los Recursos", analizadas con referencia a casos de todo el mundo. La tercera parte presenta diferentes enfoques y aspectos del tema de la relación entre "Conservación de la Biodiversidad y Pueblos Indígenas". Aquí encontramos una discusión general del tema y casos de estudio. En la cuarta parte sobre "Cultura Indígena y Desarrollo" se trata las cuestiones de identidad, equidad y cooperación. La parte quinta trata por un lado los derechos indígenas y los convenios y declaraciones internacionales, y por otro lado, presenta iniciativas para el mejoramiento de las políticas de los estados europeos referentes a la ayuda para el desarrollo de los pueblos indígenas.

Document N° 85, 1997. Editado por S. Büchi, Ch. Erni, L. Jurt y Ch. Rüegg. Edición de bolsillo; 359 páginas, mapas, fotografías.
ISBN 87 984110-2-0, ISSN 0105-4503, US$25.- + franqueo.

INDIGENOUS HERITAGE AND SELF-DETERMINATION *(Patrimonio Indígena y Autodeterminación)*. Publicado también en castellano (Documento N° 22). Ver descripción más arriva.

Documento Nº 86, 1997. Por Tony Simpson. Publicado en colaboración con El Programa para los Pueblos de los Bosques, UICN-Holanda y el Gobierno Autónomo de Groenlandia. 232 páginas.
ISBN 87-984110-0-4, ISSN 0108-9927. US$ 20.- + franqueo.

INDIGENOUS PEOPLES AND BIODIVERSITY CONSERVATION IN LATIN AMERICA *Pueblos Indígenas y Conservación de la Diversidad Biologico en América Latina.* Publicado en castellano bajo el titulo "Derechos Indígenas y Conservación de la Naturaleza" (Documento Nº 23). Ver descripción más arriva.

Documento Nº 87 1998. Publicado en colaboración con El Programa de los Pueblos de los Bosques, Inglaterra y la Asociación Interétnica de Desarrollo de la Selva Peruana (AIDESEP). Editado por Andrew Gray, Marcus Colchester y Alejandro Parellada. 320 páginas con fotografías.
ISBN 87-984110-5-5, ISSN 0105-4503. US$ 25.- + fanqueo.

INDIGENOUS WOMEN: THE RIGHT TO A VOICE *(Mujeres Indígenas: el Derecho a la Voz)* es una recopilación de artículos y entrevistas que se centran sobre la situación de las mujeres indígenas de hoy. Con unas pocas excepciones, los artículos han sido escritos por activistas indígenas femeninas de base y académicos de las Américas, África, Asia y Oceanía.

El Documento brinda una vívida imagen de las muchas y diferentes realidades y problemas que enfrentan las mujeres indígenas. Obviamente, muchos de estos problemas, como por ejemplo la pobreza, la violencia doméstica y la marginación, no son específicos de las mujeres indígenas. Pero la perspectiva asumida por los contribuyentes es nueva y diferente, y la crítica del "sistema dominante" es un tema recurrente, ejemplificado en el "Nuevo Orden Mundial", el cual es considerado como una amenaza a su supervivencia cultural y física, y a la relación entre mujeres y hombres. Esta perspectiva indígena otorga al libro un tono particular y lo separa de otros libros sobre mujeres.

Por ser una de las pocas publicaciones sobre las mujeres indígenas, y realizada por ellas mismas, *Mujeres indígenas: el derecho a la voz*

804

es esencial para cualquiera que trabaje o esté interesado en el tema de los pueblos indígenas o en los temas de género.

Documento IWGIA Nº 88, 1998. Editado por Diana Vinding. Edición de bolsillo, 328 páginas, fotografías.
ISBN 87 98 4110-6-3, ISSN 0105-4503, US$20 + franqueo.

EAST TIMOR: OCCUPATION AND RESISTANCE *(Timor Oriental: Ocupación y Resistencia).* El documento es una recopilación de artículos escritos por expertos internacionalmente reconocidos, activistas y políticos. El documento brinda un amplio y profundo panorama de las consecuencias de la ocupación indonesia de Timor Oriental, concentrándose en los acontecimientos de los últimos años.

Timor Oriental es un pequeño país, ocupado por la superpotencia regional, Indonesia, la cual anexó el territorio de los pueblos indígenas. Casi un tercio de la población de Timor Oriental ha muerto como consecuencia. El hambre, la guerra, las enfermedades y la extendida violación de los derechos humanos básicos están a la orden del día en Timor Oriental. Esto se documenta en el libro y se destaca el genocidio que el régimen indonesio está cometiendo en Timor Oriental.

El libro pone también al conflicto en su contexto histórico al relacionar la historia de Indonesia y Timor Oriental, y se discuten en detalle los numerosos acontecimientos que han sido centrales en el conflicto: p. ej., los asesinatos de cinco periodistas extranjeros en Balibo, justamente antes de la invasión de 1975, la masacre del cementerio de Santa Cruz, fuera de la capital, Dili, en 1991, la cumbre de APEC en 1994, el otorgamiento del Premio Nobel de la Paz de 1996.

También se discuten diversos aspectos del conflicto, como: la salud y los hospitales, las consecuencias ambientales, la condición de las mujeres de Timor Oriental, el papel de la iglesia católica y la resistencia armada contra la ocupación indonesia.

Documento IWGIA Nº 89, 1998. Editado por Torben Retboell. Edición de bolsillo, 288 páginas, fotografías. ISBN 87-984110-7-1, ISSN 0105-4503, US$19 + franqueo.

805

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806

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808

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812

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813